



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-13012023-241930
CG-DL-W-13012023-241930

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 1] नई दिल्ली, जनवरी 1—जनवरी 7, 2023, शनिवार/ पौष 11—पौष 17, 1944
No. 1] NEW DELHI, JANUARY 1— JANUARY 7, 2023, SATURDAY/ PAUSHA 11— PAUSHA 17, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली 15 दिसम्बर, 2022

का.आ. 1.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्वारा, श्री अमित अग्रवाल के स्थान पर श्री मुकेश कुमार बंसल (संयुक्त सचिव, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से अथवा अगले आदेशों तक, जो भी पहले हो, बैंक ऑफ बड़ौदा के बोर्ड में निदेशक नामित करती है।

[ई.फा. सं. 6/2/2022-बीओ-I]

कुल भूषण नैय्यर, उप सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 15th December, 2022

S.O. 1.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Shri Mukesh Kumar Bansal (Joint Secretary, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of Bank of Baroda, with immediate effect and until further orders, vice Shri Amit Agrawal.

[eF. No. 6/2/2022-BO.I]

KUL BHUSHAN NAYYAR, Dy. Secy.

नई दिल्ली 15 दिसम्बर, 2022

का.आ. 2.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्वारा, श्री ललित कुमार चन्देल के स्थान पर पर श्री प्रशांत कुमार गोयल (निदेशक, भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग) को तत्काल प्रभाव से अथवा अगले आदेशों तक, जो भी पहले हो, बैंक ऑफ महाराष्ट्र के बोर्ड में निदेशक नामित करती है।

[ईफा. सं. 6/2/2022-बीओ-1]

कुल भूषण नैय्यर, उप सचिव

New Delhi, the 15th December, 2022

S.O. 2.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Central Government hereby nominates Shri Prashant Kumar Goyal (Director, Government of India, Ministry of Finance, Department of Financial Services) as Director on the Board of Bank of Maharashtra, with immediate effect and until further orders, *vice* Shri Lalit Kumar Chandel.

[eF. No. 6/2/2022-BO.I]

KUL BHUSHAN NAYYAR, Dy. Secy.

विदेश मंत्रालय**(सतर्कता इकाई)**

नई दिल्ली, 22 दिसम्बर, 2022

का.आ. 3.—जबकि केंद्र सरकार की मत है कि श्री सुशील कुमार मीणा, अवर सचिव से संबंधित विभागीय जांच के उद्देश्यों के लिए श्री दिनेश तोमर, संपादक, विराट वैभव, 409, टोंक रोड, लाल कोठी, जयपुर, 302015 को गवाह के रूप में / किसी दस्तावेज के लिए बुलाना आवश्यक है।

अतः अब विभागीय जांच (साक्षियों की उपस्थिति और दस्तावेज प्रस्तुति) अधिनियम, 1972 (1972 का 18) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, श्री दिनेश तोमर और मामले में किसी अन्य गवाह के संबंध में उक्त अधिनियम की धारा 5 में निर्दिष्ट शक्ति का प्रयोग करने के लिए एतद्वारा श्री अविनाश कुमार सिंह को जांच अधिकारी के रूप में अधिकृत करती है।

[फा. सं. क्यू/विग/841/01/2021]

पुनीत अग्रवाल, संयुक्त सचिव (सीएनवी और आई) और मुख्य सतर्कता अधिकारी

MINISTRY OF EXTERNAL AFFAIRS**(Vigilance Unit)**

New Delhi, the 22nd December, 2022

S.O. 3.—WHEREAS the Central Government is of the opinion that for the purposes of the departmental inquiry relating to Shri Sushil Kumar Meena, Under Secretary, it is necessary to summon as witness/call for any document from Shri Dinesh Tomar, Editor, Virat Vaibhav, 409, Tonk Road, Lal Kothi, Jaipur, 302015

NOW THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 4 of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 (18 of 1972), the Central Government hereby authorizes Shri Avinash Kumar Singh, as the Inquiring Authority to exercise the power specified in Section 5 of the said Act in relation to Shri Dinesh Tomar and any other witness in the case.

[F. No. Q/Vig/841/01/2021]

PUNEET AGRAWAL, Joint Secy. (CNV & I) & Chief Vigilance Officer

सी.पी.वी. प्रभाग

नई दिल्ली, 3 जनवरी, 2023

का.आ. 4.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद् द्वारा, केंद्र सरकार भारतीय दूतावास, ब्रसेल्स में प्रदीप कुमार कुल्हरी, सहायक अनुभाग अधिकारी को दिनांक 03 जनवरी, 2023 से सहायक कौंसुलर अधिकारी के रूप में कौंसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(01)]

एस.आर.एच. फहमी, निदेशक (कौंसुलर)

CPV Division

New Delhi, the 3rd January, 2023

S.O. 4.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Mr. Pradeep Kumar Kulhari, Assistant Section Officer in Embassy of India, Brussels, as Assistant Consular Officer to perform Consular services with effect from January 03, 2023.

[F. No. T. 4330/01/2023(01)]

S.R.H FAHMI, Director (Consular)

नई दिल्ली, 3 जनवरी, 2023

का.आ. 5.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्द्वारा, केंद्र सरकार भारत के दूतावास, कुवैत में श्री संतोष कुमार, सहायक अनुभाग अधिकारी, को 03 जनवरी, 2023 से सहायक कौंसुलर अधिकारी के रूप में कौंसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(02)]

एस.आर.एच. फहमी, निदेशक (कौंसुलर)

New Delhi, the 3rd January, 2023

S.O. 5.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Santosh Kumar, Assistant Section Officer in the Embassy of India, Kuwait, as Assistant Consular Officer to perform Consular services with effect from January 03, 2023..

[F. No. T. 4330/01/2023(02)]

S.R.H FAHMI, Director (Consular)

परमाणु ऊर्जा विभाग

मुम्बई, 23 दिसम्बर, 2022

का.आ. 6.—सार्वजनिक परिसर (अनाधिकृत कब्जाधारियों की बेदखली) अधिनियम, 1971 (1971 का 40), के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा निम्नलिखित टेबल के कॉलम (1) में उल्लिखित अधिकारी के राजपत्रित अधिकारी होते हुए उपरोक्त अधिनियम के उद्देश्य हेतु संपदा अधिकारी के रूप में नियुक्त करते हैं जो कि उक्त टेबल के कॉलम (2) में उल्लिखित सार्वजनिक परिसर के संबंध में अधिनियम द्वारा या उसके तहत प्रदत्त शक्तियों का प्रयोग करेंगे और दायित्वों का निर्वहन करेंगे।

अधिकारी का पदनाम (1)	सार्वजनिक परिसर की श्रेणी और अधिकार क्षेत्र की सीमाएं (2)
1. निदेशक (कार्मिक एवं प्रशासन)/ मुख्य प्रशासनिक एवं लेखा अधिकारी, परमाणु खनिज अन्वेषण एवं अनुसंधान निदेशालय, परमाणु ऊर्जा विभाग, 1-10-153-156, बेगम्पेट, हैदराबाद - 500 016. आंध्र प्रदेश	एएमडी, परमाणु ऊर्जा विभाग, हैदराबाद, आंध्र प्रदेश से संबंधित या उनके प्रशासनिक नियंत्रण के अधीन परिसर।

[फा. सं. 12/2(9)/2022-आईएंडएम (एएमडी/16091)]

एस. वी. चव्हाण, अवर सचिव

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 23rd December, 2022

S.O. 6.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below being Gazetted Officer of the Government, to be the Estate officers for the purpose of the said Act who shall exercise the powers conferred and perform the duties imposed on Estate Officer, by or under the said Act, in respect of Public Premises specified in the corresponding entries in column (2) of the said Table.

Designation of the Officer (1)	Categories of Public Premised & local limits of jurisdiction (2)
1. Director (Personnel & Administration)/ Chief Administrative and Accounts Officer, Atomic Minerals Directorate for Exploration and Research, Department of Atomic Energy, 1-10-153-156, Begumpet,	Premises belonging to or under the administrative control of AMD, Department of Atomic Energy in Hyderabad, Andhra Pradesh.

Hyderabad- 500 016. Andhra Pradesh	
---------------------------------------	--

[F. No. 12/2(9)/2022-I&M(AMD/16091)]

S.V. CHAVAN, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 27 दिसम्बर, 2022

का.आ. 7.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओरियन सुरक्षा समाधान प्राइवेट लिमिटेड प्रबंध तंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट संदर्भ संख्या (19/2018) को प्रकाशित करती है।

[सं. एल .12011/07/2018. आई आर (बी.1)]

ए. के. यादव, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 27th December, 2022

S.O. 7.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.19/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Asansol as shown in the Annexure, in the industrial dispute between the management of Orion Security Solution Pvt.Ltd and their workmen.

[No. L-12011/07/2018– IR(B-1)]

A. K YADAV, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE No. 19 OF 2018

PARTIES: All Bengal Security & Allied Workmen Union, Purulia.

Vs.

Management of Orion Security Solution Pvt. Ltd., Kolkata.

REPRESENTATIVES:

For the Union/Workmen: None.

For the Management: None.

INDUSTRY: Banking.**STATE:** West Bengal.**Dated:** 05.12.2022**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-12011/07/2018-IR(B-I)** dated 09.07.2018 has been pleased to refer the following dispute between the employers, that is the Management of Orion Security Solution Pvt. Ltd., Kolkata, a contractor of Axis Bank and their workmen for adjudication by this Tribunal.

SCHEDULE

“Whether the following demands of the Union to the Management of Orion Security Solution Pvt. Ltd., Kolkata, a contractor of AXIS BANK providing Security Guards I the ATMS of AXIS BANK in the purulia District are just and legal? If not, to what relief the workmen are entitled and to what extent?”

(i) Issue of Identity Card, Uniform and Appointment letters for all the employees, (ii) Payment of Minimum Wages, (iii) Payment of O.T. in case of deployment for more than 08 hours, (iv) Durga Puja Bonus @12%, (v) Providing of EPF & ESI facility, (vi) Night duty allowance in case of night duty, (vii) Without prior notice, no deduction of wages and stoppage of shift, (viii) Starting Payment of salary as per previous rate for employees of Purulia and Raghunathpur, (ix) No employee should be transferred or retrenched, and (x) Stop misbehavior with the employees is just and legal? If not, to what relief the workmen are entitled to?

1. On receiving Order No. L-12011/07/2018-IR(B-I) dated 09.07.2018 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 19 of 2018** was registered on 19.07.2018 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses. None of the parties appeared before the Tribunal through their authorized representatives.

2. The case is fixed up today for taking proper steps and for filing written statement. At 02:05 PM on repeated calls none appears for Orion Security Solution Pvt. Ltd, a contractor of Axis Bank and security guards or their union who raised the dispute. Notices were sent under registered post but none appeared.

3. The issue involved in this Reference is whether the demand of the Union before the Management of Orion Security Solution Pvt. Ltd., Kolkata, a contractor of Axis Bank in the Purulia district, relating to the claims for issuance of Identity Card, Uniform and Appointment letters for the employees, Durga puja bonus @12%, providing EPF and ESI facilities, Night duty allowance, payment of salary as per previous rate for employees of Purulia and Raghunathpur, non-transfer and retrenchment of employees are justified and legal.

4. On considering the record it appears that since the registration of this case on 19.07.2018 none of the parties appeared and no written statement has been filed in support of their claims. The Tribunal has awaited for their representation for four (4) years. It would be a travesty of justice to grant further time to the people who are dis-inclined to appear. Accordingly, a **No Dispute Award** be passed.

Hence,

ORDERED

The Reference case is accordingly disposed of. A **No Dispute Award** is drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 28 दिसम्बर, 2022

का.आ. 8.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक प्रबंधन के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट संदर्भ सं. (33/2017) को प्रकाशित करती है।

[सं. एल-12011/19/2017 आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 28th December, 2022

S.O. 8.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.33/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the industrial dispute between the management of Reserve Bank of India and their workmen.

[No. L-12011/19/2017- IR(B-1)]

A. K YADAV, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT,
ERNAKULAM****Present:** Shri. V .VIJAYA KUMAR, B. Sc, LLM, Presiding Officer.(Monday the 30th day of May 2022, 20 Vaisagha 1944)**ID No. 33/2017**

Workman : The secretary
Reserve Bank Employees Association
Bakery Junction,
Trivandrum – 695033

By Adv. K.V George

Management : The Regional Director
Reserve Bank of India
Reserve Bank Building,
Bakery junction,
Trivandrum – 695 033.

By Shri. Sreeni N.K

Assistant. General Manager

This case coming up for final hearing on 30/03/2022 and this Tribunal-cum-Labour Court passed the final award passed the following on 30/05/2022.

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India , Ministry of Labour by its Order No. L-12011/19/2017–IR(B-1) dt. 06/12/2017 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is :

“ Whether the action of the management of the Reserve Bank of India, Trivandrum in denying the incentive scheme to Class III Employees, extended to Officers and Class IV employees , even when Class III are involved along with the Officers and Class IV Employees in the work of processing of soiled notes in currency verification and processing system is justified ? (If not to what relief they are entitled ?

3. The management Reserve Bank of India, Trivandrum introduced an incentive scheme for Officers in the year 2003 for expeditious disposal off processing of soiled notes, beyond the daily allotted quota of work ie, four lakhs pieces per day. It is paid for processing of soiled notes by Currency Verification and Processing System beyond 4 lakhs pieces per day. If the Chest Note Vault (CNV) and Currency Verification and Processing Systems (CVPS) staff and supporting staff failed to process more than Four lakhs pieces on a day, nobody is entitled to get the incentive. In 2007 the incentive was extended to class IV employees posted inside CNV @ 50% of that paid to those who are working in CVPS. Besides four Durwans (Security Staff) deployed at the entrance gate of CNV as well as the main security entrance gate were also extended 50% incentive on the ground that they are involved in frisking those who enter and exit CNV. CVPS ; Apart from the above, one Treasurer and his Mazdoor, a Class IV employee are also categorized as supporting staff to receive 50% incentive. However, the Class III workman posted inside CNV is denied incentive on the plea that he is a clerk and he is performing only the clerical duties such as maintaining the related books, registers, vouchers and the data base of cash deposited in the chest bins and taken out of the chest bins each day and they are not physically handling cash, opening the bins etc.

4. The management filed written comments on the claim of the union. There is no ground, legal or otherwise, entitling the Association to raise any dispute as there being no industrial dispute. In terms of circular CO.HRDD.No. 3945 & 3944/15.63.00 dt.16/10/2007. Officers/Class IV who facilitate smooth operation of Currency Verification and Processing System section for optimal output are extended incentive @ 50% of maximum incentive to Officers/Class IV staff working in CVPS section. In cash department of the management bank, Treasurer is overall responsible for the activities of the department which includes activities in CNV also. As such the Treasurer is indirectly involved in the operation of CNV and is eligible for incentive as extended to the support staff vide the above circular. As part of their responsibility, Durwans are required to monitor the

movement of cash in and out of CNV and also to seal CNV after the closure of the days' operation. As such they are indirectly involved in the cash operations at CNV and is eligible for incentive as extended to support staff vide above circular. The Officers deployed for viewing CCTV during night shift were also treated as support staff for incentives, as a onetime measure, introduced at the time of processing of Specified Bank Notes (SBN) during withdrawal of legal tender of denomination of Rs.500/- and Rs.1000/- notes. As part of clean note policy CVPS has been installed at all offices of the management Bank for mechanized online examination, authentication, counting, sorting and destruction of notes received from banks. Incentive have being paid to officers and Class IV employees for processing of soiled notes in CVPS over and above the daily minimum output, since 2003. As no Class III employees were attached/posted for CVPS operation, the payment of incentives was not extended to them. In the year 2007 it was decided to extend the incentive to the support staff, who facilitate the smooth operation of CVPS section for optimal output, at the rate of 50% of maximum of incentive to Officers and Class IV employees working in CVPS section. Accordingly, among others, Officers and Class IV employees working in the Chest Note Vault are eligible for incentive for the work related to CVPS. The Class III employees working in the Chest Note Vault is entrusted with the book keeping work for the notes received and issued to and from the Chest Note Vault on daily basis and are not involved in handling the notes.

5. The union filed a rejoined denying the claim of the management in the written statement. Reserve Bank of India has the sole right to issue bank notes in India as per Sec 22(1) of the Reserve Bank of India Act, 1934. Sec 27 of the Reserve Bank of India Act, 1934, states that the bank. shall not re-issue the notes which are torn, defaced, or excessively soiled. The Currency Verification and Processing System is the mechanism for ensuring the integrity and good quality notes in circulation. CVPS is a mechanized system in which soiled notes received from various currency chests across the state are verified in terms of quality and quantity. The notes declared fit are retrieved for reuse and those found unfit are destroyed by the machine. The soiled notes received by the currency chest are received and stocked in the Chest Note Vault of Issue Department of the management bank. The soiled notes received are issued to CVPS for processing as per the intend received. The Class III employees posted to Chest Note Vault are responsible for keeping the books and make entries of every transaction from and to the Chest Note Vault on a daily basis which includes the issue of notes to CVPS. In the year 2003 an incentive scheme was made available to all employees and officers, working in CVPS other than class III workman. In the year 2007, the management extended the incentive @ 50% of the maximum incentive to the support staff who were involved in the smooth functioning of CVPS as per circular dt. 16/10/2007. At present the payment of incentive is being made to the Treasurer, Joint Custodian of CNV and Durwans of CNV considering them as support staff, in addition to the actual personnel at work on the machines in the CVPS section. Treasurer and Durwans are not involved in handling notes. The management admitted the fact that Class III employee working in Chest Note Vault is part of organization set up as laid down in Chapter 2 part 1 of Issue Department Manual. The claim of the management that Class III employee is not eligible for incentive as he/she is not involved in the handling of notes does not hold good because the Treasurer and the Class IV employees posted at the entrance of the vault are being paid incentive at 50% of the maximum incentive to officers and class IV employees working in CVPS system, considering them as support staff. All the data entry, maintenance of books and registers preparation of vouchers relating to receipt and issue of note in Chest Note Vault, including the issue of soiled notes to CVPS for processing are carried out by the Class III employees posted in Chest Note Vault. Hence it can be seen that Class III employee posted in CNV is part of the support staff which enables smooth conduct of the CVPS system. The additional work done by the Class III employees cannot be ignored for incentivized output. During the year 2018, CVPS accomplished work eligible for incentive on 153 days and 50% of the incentive was paid to the support staff also. Since Class III employees are not included in the support staff they were denied the additional benefit for 153 days during the year 2018 alone. From 2007 onwards the class III employees are eligible for incentive for 2740 days, approximately.

6. The management filed a reply to rejoinder reiterating its stand in the written statement. It is pointed out that there is clear distinction between work assigned to officers and Class IV as against Class III. The nature of work assigned to class III does not warrant any incentive.

7. After completion of the pleadings the Union examined WW1 and marked EXbts W1 to W18 (series). The management examined MW1 and marked Exbt M1 to M10.

8. The following issues are required to be adjudicated in the present dispute.

- 1) Whether the industrial dispute is maintainable ?
- 2) Whether the Class III employee posted in Chest Note Vault/Currency Verification and Processing System is entitled for incentives given to officers and Class IV employees posted there ?
- 3) Relief and cost ?

9. Issue No. 1

The representative of the management who appeared on behalf of management argued that there is no industrial dispute between the Management and union warranting interference by this Tribunal. As per Sec 2(k) of the Industrial Disputes Act 1947,

“Industrial Dispute “Means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non employment or the terms of employment or with the conditions of labour, of any person”

It is seen that the Union raised a dispute that the Class III employees deployed at CVPS/CNV are also eligible for the incentive applicable to the officers and Class IV staff posted there, as support staff. There is a dispute between the Management and the Union with regard to the terms of employment and conditions of labour and therefore the claim of the Management that there is no industrial dispute as per Section 2(k) of ID Act, has no basis in fact or law.

10. Issue No. 2.

The Management bank is responsible for issue of bank notes in India. As per the provisions of the Reserve Bank of India Act, 1934, the Management bank is not supposed to re-issue notes which are soiled. The Management bank therefore came with the Currency Verification and Processing System to ensure that only good quality notes are in circulation. The CVPS system verifies the soiled notes received from various currency chests. The notes declared fit are retrieve for reuse and those found unfit are destroyed. The soiled notes remitted by the currency chests are received and stocked in Chest Note Vault of Issue Department. The Class III employees posted to Chest Note Vault are responsible for book keeping, making entries of every transaction from and to the CNV on daily basis, which includes the issue of notes to CVPS also. The Management introduced an incentive scheme for officers in the year 2003 for expeditious disposal of processing of soiled notes. If soiled notes beyond 4 lakhs pieces are processed in a day, the officers are entitled for an incentive. In 2007 the incentive scheme was extended to the Class IV employees posted inside CNV @ of 50% of the maximum of that paid to those who are working in CVPS. The benefit was also extended to the Security Guards (Durwans) deployed at the entrance gate of CNV as well as the main security entrance gate. However the incentive scheme is denied to the Class III employees posted inside CNV on the ground that they are only doing clerical duties. And not physically handling cash. The Union pointed out that the incentive is given to Treasurer and Mazdoor with him in Class IV cadre. It was also pointed out that the Durwans in Class IV cadre is also not directly handling cash. Still they are extended in the incentive scheme as support staff. MW1, in his cross examination confirmed the criteria for paying incentive, as physical handling of cash and preliminary verification of currency. However when the Union pointed out that the Treasurer and Durwans are not handling cash, the Management clarified that the Treasurer is having overall responsibility and the Mazdoor has the role of assisting the Treasurer. When the Union raised the issue as to how Durwans in Class IV cadre is classified as support staff and given 50% incentive, the management took a stand that they are frisking the persons who enter the CVPS. Hence it is clear that the Management has no consistent policy regarding the persons who are eligible for the incentive scheme. The learned Counsel for the Union pointed out that as per Exbt W1 Clause 4.1 “ The vault will be under the joint custody of Manager and Assistant Treasurer. There shall by a CNE for maintain various registers and preparation of vouchers etc. The required Class IV staff shall assist them in opening boxes, stacking of notes in bins, removal of notes etc” The CNE, (Coin Note Examiner) is re-designated as Assistant and is the Class III workman involved in this industrial dispute. According to the learned Counsel for the Union the above provision will be clearly indicate that the Class III workman is integral part of the organization set up of CNV. Exbt M6 consists of samples of three registers maintained by the Class III workman deployed in CNV on day to day basis. CD3 register, is a consolidated register recording entries of receipts from various currency chests in the state as per invoices received from them and maintained by Class III workman posted inside the CNV. CD 9, is another register maintained by the Class III workman in CNV, containing details of currency notes received from various currency chests as per invoices received on a single day and CD 50 is another register maintained by Class III workman consisting of currency notes awaiting details of examination. The Class III workman also keeps parallel account for the Treasurer, binwise, datewise and consolidated. Total outstanding balance as per CD1 and CD1(a) maintained by the officers should always agree with the outstanding balance in CD 3 and CD 9 and CD 15 maintained by the Class III workman. The Class III workman is also responsible for keeping books and making entries of every transaction from and to the CNV on a daily basis which includes the issue of notes for verification and processing based on the intents received from CVPS. Further, whenever currency notes received from various currency chest of different banks are deposited into the chest bins or taken out from the chest bins based on the intents, corresponding entries are made in the relevant register by the Class III workmen. The Union witness, WW1 is an employee who worked in the CNV from 2015 to 2017. He confirmed the above activities of the Class III workman posted in Chest Note Vault. His evidence could not be challenged by the Management during cross examination. The

management witness, MW1 also confirmed the above activities of Class III employees. According to him “They are suppose to make entries when the cash is out of the chest. At every point of time, binwise balance of cash maintained in M3 and M4 document shall agree with CD3, CD9 and CD50 registers maintained by the Class III employees.” The representative of the Management argued that the Class III employees were never treated as support staff in terms of the Exbt M4 series of circulars as their functional role in CNV were never connected with attaining the output in CVPS making them eligible for incentive. According to him the officers involved in the process are required to be mentally alert at all times and on any event of cash shortage, mismatch or irregularities in cash withdrawals can lead to severe consequences. However no such responsibility is fixed on a Class III employees in CNV except in case of fraud. The representative further argued that Exbt. M8 established that even during the time when CVPS was running at higher productivity, the duration of time spend by Class III employee inside CNV is less compared to the officers and Class IV employees in CNV. Exbt. M8 document produced by the Management is the copy of the Entry Permit Register and even if there is a marginal time difference, it will not help the claim of the management that the Class III employee is not involved in any support function in CNV. The representative of the Management further pointed out that, with effect from 28/05/2020, the Assistants in CNV has no role in generation of vouchers or data entry after introduction of e-CyM system. He further pointed out that their role now is limited to the maintenance of registers. He further pointed out that the six employees deployed outside CVPS are treated as support staff, since they fulfill the work profile facilitating smooth functioning of CVPS for attaining eligible output and therefore they are eligible for incentive. He also pointed out that the Class III workman posted in CNV are neither physically handling the note nor are present inside the CNV for the entire time period, the CNV is open nor are accountable for notes nor responsible for ensuring the security of CNV or other activities inside CNV. It is his case that Class III employees are not an essential part of functioning of CVPS and they do not come within the ambit of the support staff. The documentary and oral evidence available in this dispute and discussed above do not support the claim of the management representative. The management initially took a stand that the Class III employee sitting inside the CNV and maintaining registers are not support staff as they are not physically handling cost. The learned Counsel for the Union pointed out that, even the Security Guards posted at the gate are hiring paid incentive treating them as Support Staff. The argument of the Management representative to deny the incentive to the Class III employee is not convincing and not acceptable. It is clear that the Class III workmen sitting inside CNV is also an integral part of the work chain of the CNV as on today. If the Management feels that a Class III workman is not required in CNV due to automation or computerization, it is up to the Management to take such a decision. However as long as the role and responsibilities are given to the Class III workman inside CNV, which is an integral part of the organization setup of CNV, they will have to be treated as a support staff and they shall be entitled for the incentive provided to the supporting staff.

11. Issue No. 3.

In the above paragraphs it is already been found that the Class III workmen posted in CNV will also come within the category of support staff and they are entitled for the incentive. Hence all the Class III employees who worked in Chest Note Vault on the days when CVPS has accomplished work eligible for incentive from 16/10/2007 onwards, are eligible for the incentive.

12. Hence the reference is answered holding that the action of management of Reserve Bank of India, Trivandrum in denying the incentive scheme to Class III employee, extended to officers and Class IV employees, even when the Class III employees involved along with the officers and Class IV employees in the work of processing of soiled notes in currency verification and processing system is not justified. The Class III employees who worked in Chest Note Vault on the days when CVPS has accomplished work eligible for incentive are eligible for an incentive @ 50% maximum of incentive to officers and class IV staff working in CVPS section with effect from 16/10/2007.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 30th day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman :

WW1 - Shri . Prasanth S.B.S dt. 01/09/2021

Witness for the Management : -

MW1 - Shri. Mani Shankar G. dt. 30/12/2021

Exhibits for the Workman :

(The documents were marked subject to proof)

- W1 - True copy of Department Manual 2004, Chapter 2.
- W2 - True Copy of the Circular No. DCM (Plg) 179/10.87.05/2003-04 dt. 11/08/2003 from Reserve Bank of India, Department of Currency Management, Central Office.
- W3 - True copy of the Circular CO. HRDD. No. 3944/ 15.63.00/2007-08 dt. 16/10/2007 from Reserve Bank of India, Central Office, regarding CVPS- incentive for staff in Class IV.
- W4 - True copy of the Circular No. DCM(S&D) No. 4510/12.02.29/2016-17 dt. 11.04.2017 regarding incentive payable to officers via Wing CCTV for CVPS operations in night shift.
- W5 - True copy of the Minutes of Half yearly conciliation proceedings vide RBI, Thiruvananthapuram letter HRMD(T) No. 176/01.12.01/ 2013-14 dt. 11/07/2013
- W6 - True copy of the application submitted by RBEA for violation of fourth schedule before the Regional Labour Commissioner (Central) Thiruvananthapuram.
- W7 - True copy of the preliminary submission of RBI Thiruvananthapuram letter dt. 17/11/2014.
- W8 - True copy of the rejoinder filed by the Association dt. 15/12/2014 before the Regional Labour Commissioner (Central), Thiruvananthapuram.
- W9 - True copy of the proceedings of the Regional Labour Commissioner (Central), Thiruvananthapuram dt. 20/01/2015.
- W10 - True copy of failure of conciliation report dt. 16/05/2017 issued by Regional Labour Commissioner(Central), Thiruvananthapuram.
- W11 - True copy of statement showing the Year Wise No. of days which the CVPS had accomplished work eligible for incentive.
- W12 - True copy of statement showing the disposal of soiled notes by RBI.
- W13 - True copy of RBI letter No. HRMD No. 12670/29.63.00/2013-14 dt. 17/04/2014 regarding parameterization of CVPS – incentive structure.
- W14 - True copy of CVPS- incentive for Officers –Revision vide RBI letter No. CO HRMD G. No. 124/21767/29.63.00/2015-16 dt. 30/03/2016 .
- W15 - True copy of RBI Letter No. CO HRMD G.No.1251/20770/29.63.00/2015-16 dt. 30/03/2016 regarding CVPS – revisions of incentive for staff in Class IV.
- W16 - True copy of Certified extract of Chapter II of Issue Department Manual Edition IV -2004.
- W17 - True copy of list of Class III employees posted in Chest Note Vault from 02/05/2012 to 31/07/2019 on those days when CVPS had accomplished work eligible for incentive.
- W18 - True copy of rate of incentive paid to Officers and Class IV employees posted in Chest Note Vault on those days.

Exhibits for the Management:-

- M1 - True copy of Chapter 2 of ID Manual 2004- cash department.
- M2 - True copy of Ingress/Egress of persons entering/exiting Chest Note Vault December 2-14, 2019.
- M3 - True copy of Bin Book – CD1
- M4 - True copy of Bin Card – CD 1A dt. 26/10/2021
- M5 - True copy of series of RBI circulars (i) to (xiii) on CVPS incentive – 13 circulars.
- M6 - True copy of entries in Chest Note Vault registers - CD3,CD9 and CD 50
- M7 - True copy of Ingress/Egress of persons entering/exiting Chest Note Vault.
- M8 - True copy of Ingress/Egress – Entry Permit Register of Chest Note Vault.
- M9 - True copy of RBI master circular on compensation for extra hours of work dt. 01/04/2021.
- M10 - True copy of statement showing overtime rendered in Chest Note Vault by Class III staff.

नई दिल्ली, 28 दिसम्बर, 2022

का.आ. 9.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मर्सस स्टेट बैंक ऑफ त्रावणकोर प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट संदर्भ संख्या (21/2015) को प्रकाशित करती है।

[सं. एल- 12025/01/2022-आई आर (बी-1)-16]

ए. के. यादव, अवर सचिव

New Delhi, the 28th December, 2022

S.O. 9.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.21/2015) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the industrial dispute between the management of M/s. State Bank of Travancore and their workmen.

[No. L-12025/01/2022– IR(B-1)-16]

A. K. YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT, ERNAKULAM

Present: Shri. V .VIJAYA KUMAR, B. Sc. LLM, Presiding Officer.

(Tuesday the 24th day of May 2022, 3 Jyaistha 1944)

ID No. 21/2015

Workman/Union : Smt. Sajimol Shaji
Kanjiramvila Veedu
Kaithakodu P.O.
Pavithreswaram, Puthoor
Kollam – 691543

By Adv. Ravindranathan N. S.

Managements : 1. The Managing Director
M/s. State Bank of Travancore
Head Office
Poojappura
Trivandrum – 695012

2. The Deputy General Manager
M/s. State Bank of Travancore
Zonal Office
Kollam - 691008

By Adv. C. Anilkumar

This case coming up for final hearing on 16.11.2021 and this Industrial Tribunal-cum-Labour Court on 24.05.2022 passed the following:

AWARD

1. This is an industrial dispute filed U/s 2A(2) of the Industrial Disputes Act, 1947.
2. The worker filed her claim statement stating that she was engaged as a temporary/casual employee in the service of the Management Bank at its East Kallada Branch from 01.09.2011 against a permanent vacancy. The worker was working continuously without any break in service with a clear indication that she will be absorbed in the service of the Bank as per the regularization norms entered into between the Management Bank and the Union. The Management issued notification dt. 04.01.2012 inviting applications from eligible

candidates for appointment as Part time Sweepers in various branches. Casual/ temporary service employees were also allowed to participate in the recruitment process on the basis of the agreement between the Management Bank and the Union with eligible age relaxation. A true copy for the notice issued by the Management is produced and marked as document no. 2 (Exbt.W2). Since there was a vacancy of part time sweeper in the East Kallada Branch of the Management Bank, the worker was qualified to be absorbed as per the settlement entered into by the Union and the Management. The application was submitted by the worker along with photo and copy of the required documents. The worker was called for an interview on 18.04.2013 and all the documents in original were produced. A true copy of the call letter dt. 01.04.2013 is produced and marked as document no.3(Exbt.W3). Having found that the worker was eligible for regularization, the Management issued appointment order dt. 28.06.2013, appointing the worker as the Maintenance Staff at East Kallada Branch. The worker joined duty as a permanent employee on 10.07.2013, as she was already working as a temporary employee in the Bank. The salary and allowances are also fixed as per Bipartite Settlement. A true copy of the appointment order dt. 28.06.2013 is produced and marked as document no. 4(Exbt.W4). While working at East Kallada Branch, the worker was again asked to submit her qualification certificate which was duly complied with. On 10.08.2013, the worker was asked by the Branch manager not to sign in the Staff Muster Roll. Thereafter the worker was not allowed to sign the Muster Roll from 11.08.2013. On 17.10.2013, the worker was served with an order dt. 11.10.2013 informing that her appointment is cancelled since it is found that the worker had passed SSLC examination which is not needed for the post of maintenance staff. No notice of termination was given to the worker before issuing the cancellation order. A true copy of the order dt. 11.10.2013 is produced and marked as document no. 5 (Exbt.W5). The worker filed representations on various dates, copies of which are marked document nos.6 and 7(Exbts.W6 & W7). Thereafter the worker worked in the Branch upto 06.06.2014. During this period the worker was paid salary pertaining to casual employees in different names. From 07.06.2013 onwards the worker was denied her employment. Since the Management did not respond to her representation, the worker approached the Regional Labour Commissioner(C). The Management had already regularized the service of the casual employees who are having SSLC pass qualification based on the agreement and recruited Ex-servicemen holding SSLC pass qualification as security guards in the subordinate cadre. Hence the contention that the worker is SSLC passed, to deny the employment, is discriminatory and denial of equality in the employment. The worker is entitled for an identical treatment. Part time Sweepers, Peons and Security staff are called Maintenance Staff in the Subordinate cadre and their pay scales are also same. The educational qualification prescribed for the recruitment of subordinate staff by Govt of India is a pass in 8th Std or its equivalent but the candidate should not pass +2 examination or its equivalent. It is a well settled position that possession of higher qualification is not a disqualification to hold a post. The worker qualified all the eligibility criteria laid down by the Management Bank.

3. The Management filed written statement denying the above allegations. As per notification dt.04.01.2012, the Management Bank called for application for recruitment of Maintenance Staff by advertising through notice boards and also called for candidates from Employment Exchange. It was notified that the applicant should not have passed SSLC examination. The applicant was also required to produce documents to prove their age and qualification along with their application. The worker, herein, is one among the applicants. While submitting the application, she enclosed only the 1st page of her SSLC book along with the application and had not produced the mark list as proof of educational qualification. The worker was selected for interview on the basis of the documents produced by her. She was called for an interview on 18.04.2013 and she was directed to produce all the originals to prove the qualification. The worker was provisionally selected for the post on her undertaking to submit the original documents later and also subject to verification of the original documents. In the provisional appointment letter dt.28.06.2013 it was clearly specified that in case any information given by her in the application form and other declarations furnished by her turned out to be false, she is liable to be discharged from Bank's service. The worker reported at East Kallada Branch on 10.07.2013. At the time of joining, the worker had given a declaration that all the information furnished by her in respect of qualification, age etc., are true and correct. She also further affirmed that any misrepresentation or false declaration made by her would render her liable for punishment including dismissal from service. Subsequently on verification of original documents, it came to the knowledge of the Bank that the worker had passed SSLC examination. The qualification fixed for the post was SSLC failed. Hence the worker was directed to abstain from her duties. A letter of cancellation of appointment dt. 11.10.2013 was issued to the worker as she secured appointment by suppressing her qualification. The appointment of the worker on the basis of the false declaration renders her appointment void, abinitio. The claim that the worker was engaged as a temporary employee from 01.09.2011 is not correct. The worker was one among the outsiders who was occasionally cleaning the Bank premises. There was no continuous engagement of the worker from 01.09.2011 onwards. The worker had not completed 240 days of continuous service under the Management and therefore she cannot claim any right under the Management or challenge cancellation of her employment. The claim of the worker that she worked in the Branch upto 06.06.2014 is also not correct. The claim of the worker that she was denied employment on 07.06.2014 is also not correct. The

worker was never subject to any discrimination. The Management has the right to fix qualification for a particular post and the said right of the Management cannot be a subject matter for adjudication in an industrial dispute. It is also denied that the cancellation of appointment of the worker is in violation of awards/settlements/agreements and in violation of principles of natural justice. The worker had not completed probation in order to claim any benefit of a permanent employee.

4. The worker filed a rejoinder denying the claim of the Management in the written statement. The worker was appointed as a part time sweeper in pursuance to a settlement dt.21.10.2011 entered between the Management and the recognized union. As a method of regularizing casual/temporary employees working in the Bank in pursuance of settlement dt.21.10.2011, the Management Bank recruited 107 casual/temporary employees as per the list provided by the Union in the 1st phase during 2011. The next phase of regularization of casual employees was carried out along with the recruitment of candidates sponsored by the Employment Exchange. Notice board notification was issued by the Management Bank to enable the casual and temporary employees working in various branches to apply for the PTS. The maximum age limit was relaxed. On the basis of the notification dt.04.01.2012, the worker also applied since she was working in the Bank from 01.09.2011. The worker was 41 years as on 01.06.2011. After completing the interview and other selection process, the worker was appointed as Part time Sweeper at East Kallada Branch where she was working as a casual/temporary employee. The worker produced photo identity card issued by the Election Commission to prove her age and produced the originals of SSLC book at the time of interview on 18.04.2013. She also produced a certificate dt.17.04.2013 issued by the Branch Manager of the East Kallada Branch. The worker did not give any declaration or any other particulars at the time of joining the Branch on regularization of appointment. On 10.08.2013, the worker was asked by the Branch Manager not to sign in the Staff Muster Roll. On 17.10.2013, the worker was served with an order of cancellation of appointment. The worker never made any false declaration or suppressed any material information. The order issued, canceling the appointment by regularization, is in violation of the provisions contained in Sastri Award, Bipartite Settlement and in violation of the provisions of Industrial Disputes Act, 1947. The worker completed 2 years of service at the time of joining as permanent employee on 10.07.2013 and considering her casual temporary service she was considered and appointed as PTS at East Kallada Branch. The worker was working in the Branch upto 06.06.2014.

5. When the services of the worker was terminated on 07.06.2014, the worker had 2 years and 10 months service in the Bank. The condition of the Management Bank that the worker is SSLC passed to deny employment is discriminatory. Denial of employment without notice is in violation of principles of natural justice.

6. After completion of the pleadings, the worker is examined as WW1 and marked Exbts. W1 to W7 and Exbts.M1 to M6 and M6(a) through her. She also examined WW2 and marked Exbt. W8 to W14 through him. Exbts.W15, W16 and Exbts.M7 to M10 and W16(a) are marked by consent. The Management examined MW1 and marked Exbts.M11 to M16.

7. The worker filed IA no.123/2016 seeking to direct the Management to produce additional documents. The Management produced the documents and the same is taken on record subject to proof and relevance.

8. The following issues are framed for adjudication and disposal

- a. Whether the cancellation of appointment of the worker without issuing notice to the worker is proper and legal ?
- b. Whether there is any violation of the provisions of Industrial Disputes Act, 1947 in cancellation of the appointment of the worker ?
- c. Relief and cost?

9. **Issue no.1**

The worker was engaged as a temporary sweeper in the East Kallada Branch of the Management Bank w.e.f. 01.09.2011. The Management vide Exbt.W2 dt. 04.01.2012 called for applications from eligible candidates for appointment on Part time Sweeper. The age limit is fixed between 18-40 years to the employees in casual employment of the Management Bank. The age limit is extended to the extent of the casual service rendered by the applicant subject to the maximum age of 45 years. It is clear from the above notice that the above notification is meant for general public as well as for those employees who were working as casual employees with the Management. Exbt. W2 notice also specifies that application shall be forwarded along with attested copy of proof of age and educational qualification as per school records, attested copy of address and photo ID proof and attested copy of caste certificate in the standard format. The worker applied for the post as per Exbt. M1. In Exbt. M1, her qualification is shown as SSLC. According to the worker, she applied for the above post along with Exbt. M6 and M6(a) SSLC certificate. The worker was called for interview by the Management Bank vide Exbt. W3 dt. 01.04.2013. According to the worker, she produced the original

certificate at the time of the interview as required in Exbt.W3 call letter. On the basis of the interview, she was appointed as a Maintenance Staff vide Exbt.W4 dt.28.06.2013. In the staff record sheet prepared by the Management Bank, her educational qualification is furnished as SSLC. In the memorandum of appointment, Exbt. M4 also her educational qualification shown as SSLC. Both Exbt.M3 and M4 were attested by the Branch Manager of the Management Bank. According to the learned Counsel for the Management, the worker was appointed as a maintenance staff provisionally. However the appointment order does not indicate that the appointment is provisional. The learned Counsel also pointed out that in the appointment order, it is made clear that in case any information given by the worker in the application form and other declarations furnished by her turns out to be false, she will be liable to be discharged from the Bank's service. The worker reported at the East Kallada Branch of the Management Bank on 10.07.2013. At the time of joining, the worker gave a declaration that all information furnished by her in respect to qualification, age etc., are true and correct. Though the learned Counsel for the worker denied any such declaration, it is seen that the worker had given Exbt.M4 on 12.07.2013 in which she has given an undertaking to that effect. As already pointed out, in Exbt.M4 also, the worker had furnished her educational qualification as SSLC. According to the learned Counsel for the Management on further verification of the original documents by the Bank, it came to the knowledge of the Management that the worker had passed SSLC examination and the qualification fixed for the post as per the recruitment policy of the Management Bank was less than a pass in the SSLC examination. Accordingly, the Management issued the Exbt.W5, cancellation of appointment order dt.11.10.2013. In the above said cancellation of appointment order it is stated that the worker is provisionally selected for the post of maintenance staff subject to verification of documents and on verification of the documents it is found that the worker passed SSLC examination which is not needed for the above post.

10. From the documents already discussed in the above para, it is clear that the worker had declared her educational qualification as SSLC and also produced the attested copies of the SSLC certificate along with the application. In all the subsequent documents furnished by her also the educational qualification was declared as SSLC by the worker. Hence it is clear from the documents and evidence available that the worker had not suppressed any information at the time of application as well as subsequent to her appointment. If at all there is any mistake, it is on the part of the Management who called her for the interview and selected her for the appointment. The learned Counsel for the worker argued that the SSLC failed eligibility condition is not at all a policy of the Management Bank. He relied on Exbt. W12 Circular dt. 08.09.2004 issued by Govt of India, Ministry of Finance, Department of Economic Affairs and Banking Division regarding the minimum educational qualifications in respect of all cadres of employment. As per Exbt. W12, the educational qualification prescribed for subordinate staff is pass in 8th Std or its equivalent but the candidate should not pass 10+2 examination or its equivalent. According to the learned Counsel, though there is a stipulation that the Banks can as per the direction of the Boards prescribe minimum percentage of marks or any additional qualifications depending upon their requirements, the Management Bank failed to produce any document to substantiate their case that the Management Bank has decided the qualification of subordinate staff as SSLC failed. The learned Counsel further fortified his argument by contenting that the Management has already appointed lot of subordinate staff on the basis of an agreement with the Union, many of whom are with SSLC passed qualification. He relied on Exbt. M7-M10 to prove that the Management has already appointed many persons in the subordinate cadre with SSLC passed qualification. He further relied on Exbt. M15 and M15(a) to further confirm the above issue. Exbt. M16 is the terms of settlement between the Union and the Management Bank wherein they decided to regularize the service of 107 casual workers who were found to have been working for 5 years and above, and who are above 44 years of age as on 01.06.2011. According to the learned Counsel for the worker, there was no stipulation in this settlement also regarding educational qualification of the casual employees. According to WW2, who is a signatory to the above settlement, for casual employees working with the Management Bank, no educational qualification was prescribed under the settlement. The learned Counsel for the worker relied on the decision of the Hon'ble Supreme Court of India in **Jivanlal Vs Pravin Krishna, Principal Secretary and others**, 2016 KHC 6873 to argue that there cannot be any discrimination among the appointees with regard to educational qualification. The above case pertains to the regularization of 6 sweepers by the Govt. The Hon'ble Supreme Court held that "In view of the matter, we do not find any justification in discriminating the appellants herein. The policy has been violated in many cases. There cannot be any pick and choose policy; it would certainly lead to corruption". The learned Counsel also relied on the decision of the Hon'ble Supreme Court in **Ranajit Kumar Meher Vs State of Orissa and others**, 2017 KHC 6421 to argue that there cannot be any appointment in violation of rules. The Hon'ble Supreme Court held that "Qualification is to be seen with respect to the rules and not the advertisement inviting applications". According to the learned Counsel as per the policy of the Govt, the prescribed qualification is 10+2 fail and the Management failed to produce any rule which prescribes the educational qualification for subordinate staff/part time sweeper as SSLC failed. They produced only a copy of notice. The learned Counsel for the Management on the other hand argued that the Management Bank has every right to cancel an appointment in case it is found that the appointment order is given on the basis of the false declaration given by an employee. He relied on the decision of the Hon'ble Supreme Court in **Ritu**

Bhatia Vs Ministry of Civil Supplies Consumer Affairs and Public Distribution and others, 2019 KHC 6127. The above case is with regard to the appointment of a Company Secretary wherein a post qualification experience of 5 years was insisted. In the above case the Hon'ble Supreme Court held that as the appellant did not fulfill the eligibility criteria of having 5 years post qualification experience as Company Secretary as on 30.11.2013, the services of the appellant have rightly been terminated. The learned Counsel also relied on the decisions of Hon'ble Supreme Court in **Amol Vs State of Maharashtra and others**, 2017 KHC 6773 wherein the Hon'ble Supreme Court held that in the circumstances of that case the appointment already offered was a mistake of fact which can be corrected. He further relied on the decision of Hon'ble High Court of Kerala in the case of **Swaroop K. M. Vs State Bank of Travancore**, 2018 (2) KHC 289 wherein the Hon'ble High Court of Kerala held that the administrative authority is having an inherent power to correct any accidental mistake committed by it. The above case pertains to the appointment of peons wherein it was notified that candidates can apply for vacancies in their native district centers only and a candidate belonging to Palakkad district applied for appointment in Malappuram district and without noticing the fact he was appointed and posted to Perinthalmanna Branch. After verifying the records, the Bank cancelled the appointment which was under challenge before the Hon'ble High Court.

11. In this particular case, the question is whether there is a rule prescribing the educational qualification for Part time Sweepers. If at all there is any such rule, the same is not produced by the Management Bank. If there is any such policy or rule, the Management has no reason why the same is violated in the case of the earlier batch of appointments wherein SSLC passed candidates are appointed and regularized as maintenance staff. Further the Exbt. W4 appointment order of the worker specifies that

“ notwithstanding anything contained in the memo, your services are liable to be terminated at the sole discretion of the Management Bank even before the probation period without assigning any reasons, but with one month's notice or on payment of a month's salary and allowance in lieu of notice. If you decide to leave the Bank's service during the period of probation, you will be required to give the Bank one month notice in writing failing which you will be liable to pay one month's salary and allowance in lieu thereof”.

In this particular case the appointment order is cancelled and the service of the worker is terminated before the completion of probation and therefore the worker is entitled for one month's notice or notice pay as stipulated in the appointment order.

Hence the cancellation of appointment without notice to the worker as stipulated in the appointment order is not proper and legal.

12. Issue no.2

According to the learned Counsel for the worker, she is entitled to get the benefits of Sec 25B and protection under 25F of the Industrial Disputes Act, 1947. According to him, Exbt.M1 and W1 would establish the fact that the worker was working with the Management continuously for more than 240 days, one year prior to her termination. Exbt.M1 is the application filed by the worker for the post of part time sweeper wherein there is an endorsement that the worker was working as PTS in SBT East Kallada Branch from 2010 onwards and Exbt.W1 is a certificate issued by the Branch Manager of East Kallada Branch dt.17.04.2013 that the worker is personally known to him for the last two years and her conduct and character are good. The learned Counsel for the worker relied on the decision of the Hon'ble Supreme Court in **New India Assurance Co Ltd Vs Sankaralingam**, 2008 KHC 4895 to argue that the worker herein is entitled for protection U/s 25F of the ID Act in view of the fact that she had continuous work for more than 240 days one year prior to her termination. He further relied on the decision of the Hon'ble Supreme Court in **Ramesh Kumar Vs State of Haryana**, 2010 KHC 4053 to argue that since the appellant fulfill the requirement of continuous service, she was entitled for the benefits U/s 25F of the Act. Per contra the learned Counsel for the Management argued that the burden of proving that the worker worked continuously for 240 days, one year prior to her termination is on the worker. He relied on the decision of the Hon'ble Supreme Court in **State of Haryana Vs Ramesh Kumar**, 2008 KHC 5064 and **Krishna Bagya Jal Nigam Ltd Vs Mohammed Rafi**, 2009 KHC 5276 to argue that the burden of proof is on the worker to establish that she worked for 240 days in one year prior to her termination.

13. The facts of the present case are slightly different. This is a case where the worker was working for more than 2 years as a casual employee and later regularized by the Management as a maintenance staff. Her services were terminated subsequently on finding that she passed SSLC examination which is not required for the maintenance staff. Even if the benefit of Sec 25B and 25F are to be invoked, the burden of proving that she worked for 240 days prior to her termination is primarily with the worker. The learned Counsel for the worker relied on the Exbt. M1 application and Exbt. W1 character and conduct certificate issued by the Management to argue that the worker worked for more than 240 days. The worker also entered the box and stated in evidence that she worked continuously without any break during her employment as a casual sweeper. The worker ought to have called for the payment details to her from the Management Bank during her service

as a casual sweeper to establish continuous service. In **R. M. Yellatti Vs Assistant Executive Engineer**, 2006 (1) SCC 106 the Hon'ble Supreme Court held that

“The respondent was a workman hired on daily wage basis. So it is obvious as this Court pointed out in the above case that he would have difficulty in accessing to all the above documents muster roll etc, in connection with his service. He came forward and deposed so in our opinion the burden of proof shift to the employer, appellant to prove that he did not complete 240 days service in the requisite period to constitute continuous service”.

The Hon'ble Supreme Court in **Sriram Industrial Enterprises Ltd Vs Mahak Sing and others**, 2007 4 SCC 94 held that when the workman discharge their initial onus by producing the documents in their possession, it is the responsibility of the Management to disprove the claim of the workman that he did not work for more than 240 days with the Management, one year immediately prior to his termination. In this case, the documents relied on by the worker will not in any way indicate that she was working with the Management Bank for more than 240 days to claim the benefit U/s 25F of the ID Act. Further, she also failed to call for the records such as the payment details from the Bank which would have establish her case of continuous employment. In the absence of any such details, it is not possible to conclude the continuous employment and violation of the provisions U/s 25F of the ID Act.

Hence the issue is decided in favour of the Management and against the worker.

13. Issue no.3

It has already been found against issue no.1 that there is violation of the terms of appointment by which the worker is entitled for one month's notice or one month's salary and allowances in lieu of the notice before terminating her service. It is found that the worker did not suppress any information before or after her appointment. It is also found that the Management failed to produce any Rule stipulating the educational qualification for appointment as Maintenance Staff and if at all there is any such rule, the Management has already recruited many persons in the subordinate cadre with “SSLC passed” qualification. Hence worker is entitled to be reinstated in the service of the Management Bank as the claim of the Management that the worker suppressed her educational qualification while applying for the post is not established in these proceedings.

14. Hence an award is passed holding that the termination of the worker from the service of the Management Bank is not correct and legal and she is required to be reinstated in the service of the Management Bank with 50% back wages, continuity of service and other benefits.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 24th day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:-

WW1 - Smt.Sajimol Shaji, dt.23.02.2017
WW2 - Sri.K. Muraleedharan Pillai, dt.12.04.2014

Witness for the Management:-

MW1 - Smt.Sheela V., dt.07.09.2021

Exhibits for the Workman:-

W1 - True copy of certificate dt.17.04.2013 issued by the Branch Manager, East Kallada Branch
W2 - True copy of notice board notification dt.04.01.2012 issued by the Management for PTSposts
W3 - True copy of call letter dt.01.04.2013 for interview for the post of PTS
W4 - True copy of appointment order dt.28.06.2013
W5 - True copy of cancellation of appointment order dt.11.10.2013
W6 - True copy of representation dt.11.11.2013 in Malayalam language
W6(a) &- True copy of postal receipt dt.15.11.2013 and Postal A/d (b)series card addressed to DGM, Kollam

- W7 - True copy of representation dt.11.11.2013 in English language
- W8 - True copy of Memorandum of settlement dt.21.10.2011 between the Management and Union U/s 12(3) of Industrial Disputes Act, 1947
- W9 - True copy of list of 107 casual employees submitted by the Union for regularization
- W10 - True copy of circular dt.02.11.2011 issued by SBT regarding recruitment of Peons in the substaff cadre
- W11 - Relevant page of chapter XIX on part-time employees service conditions in the subordinate staff cadre
- W12 - True copy of Govt of india, Ministry of Finance order dt.08.09.2004 on recruitment in banks
- W13 - True clear typed copy of the order dt.08.09.2004 on recruitment in banks
- W14 - True copy of appointment order dt.02.11.2011 issued to Smt.Prasannakumari L.
- W15 - True copy of photo identity card of Election Commission of India
- W16 - True copy of 1st page of SSLC book of the worker
- W16(a) - True copy of Marklist of SSLC book of the worker

Exhibits for the Management:-

- M1 - Copy of application submitted by the worker on 13.01.2012
- M2 - Personal statement submitted by the worker
- M3 - Staff record sheet dt.12.07.2013 submitted by the worker
- M4 - Memorandum of appointment dt.12.07.2013
- M5 - Attestation form submitted by the worker
- M6 & M6(a) - Attested copies of relevant pages of SSLC book of the worker
- M7 - Copy of relevant pages of SSLC Book submitted by Sri.Venugopal K.S.
- M8 - Copy of relevant pages of SSLC Book submitted by Smt.Radhamany P.
- M9 - Copy of relevant pages of SSLC Book submitted by Smt.Prasannakumari L.
- M10 - Copy of relevant pages of SSLC Book submitted by Smt.Ragini Amma S.
- M11 - Copy of appointment order dt.02.11.2011 issued to Sri.Venugopal K.S.
- M12 - Copy of appointment order dt.02.11.2011 issued to Smt. Radhamony
- M13 - Copy of appointment order dt.02.11.2011 issued to Smt.Prasannakumari L.
- M14 - Copy of appointment order dt.02.11.2011 issued to Smt.Ragini Amma S.
- M1 - Copy of charter of demand dt.17.10.2011 submitted by the Union before Asst. Labour Commissioner, Trivandrum
- M15(a) - True copy of list of 107 casual employees submitted by the Union for regularization
- M16 - True copy of conciliation settlement dt.21.10.2011 between the Management and the Union

नई दिल्ली, 28 दिसम्बर, 2022

का.आ. 10.—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार मर्सस एच डी एफ सी बैंक लि प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट संदर्भ सं. (22/2016) को प्रकाशित करती है।

[सं. एल-12025/01/2022 आई आर (बी-1) -17]

ए. के. यादव, अवर सचिव

New Delhi, the 28th December, 2022

S.O. 10.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.22/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the industrial dispute between the management of M/s. HDFC Bank Ltd and their workmen.

[No. L-12025/01/2022– IR(B-1)-17]

A. K YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, ERNAKULAM

Present: Shri. V .VIJAYA KUMAR, B. Sc, LLM, Presiding Officer.

(Thursday the 5th day of May 2022, 15 Vaisakha 1944)

ID No.22/2016

Workman/Union : Sri.K.S.Mahesh
Kundelattu House
S. L. Puram P.O.
Alappuzha – 688523

By Adv.Ashok B. Shenoy

Management : The Managing Director
M/s.HDFC Bank Ltd
HDFC Bank House
2nd Floor, Senapati Bapat Marg
Lower Parel (West)
Mumbai – 400011

By Adv.Saji Varghese

This case coming up for final hearing on 13.09.2021 and this Industrial Tribunal-cum-Labour Court on 05.05.2022 passed the following:

AWARD

1. Present industrial dispute is filed U/s 2A (2) of Industrial Disputes Act, 1947.
2. The workman was employed as a peon at North Paravur branch of the management Bank. He joined the service of the management Bank on 04.09.1996, at Administrative Office, Kaloore of the erstwhile Lord Krishna Bank Ltd. M/s.Lord Krishna Bank was later amalgamated with HDFC Bank in 2008. When the workman was working at North Paravur branch, the Disciplinary Authority of the management Bank vide order dt.14.02.2013 suspended him from the service, pending initiation of domestic enquiry proceedings. The workman was suspended on the allegation that he committed certain acts of omission and commission which are prejudicial to the interest of the Bank. The management Bank issued a charge memo alleging gross misconduct of misappropriation of an amount to the tune of Rs.2,574/- under Clause 5(j) of the Bipartite Settlement dt.10.04.2002. The workman submitted a reply to the charge sheet on 10.06.2013 denying the charges. He also pointed out that he never worked as Cashier or Teller in the management Bank and none of the customers lodged any complaint against him. Without considering the reply of the workman, the management ordered enquiry into the charges by appointing Enquiry Officer and Presenting Officer. The

Enquiry Officer conducted a farce enquiry and submitted a report dt.20.11.2014, finding the workman guilty of all charges. Based on the enquiry report, the workman was imposed with punishment of discharge from service with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment, with effect from 17.06.2015. The appeal preferred by the workman was rejected by the Appellate Authority, vide order dt.03.05.2016. Aggrieved by the order, the workman filed an industrial dispute before the Assistant Labour Commissioner(Central). The disciplinary proceedings initiated against the workman was on a preconceived assumption that the workman has committed the alleged misconducts. The charge sheet is very vague and lacking in material particulars. The disciplinary enquiry was vitiated by violation of principles of natural justice, depriving the workman due opportunity of defence which caused grave prejudice to him. Certain documents and materials relied on by the Enquiry Officer were not revealed to him. Some documents were marked and relied against the workman without proper identification. The entire documents were marked and relied against workman unilaterally. Photocopy of the crucial documents were marked in the enquiry without producing the original documents and without allowing the workman to peruse the original documents. The complaints against the workman were marked and relied without affording due opportunity to cross examine its author. The prime witness and prime documents were suppressed in the enquiry. The workman was not afforded due opportunity to adduce evidence in support of his innocence. The impugned punishment imposed on the workman is, therefore, illegal, bad as it is based on an illegal and vitiated enquiry.

3. The management filed written statement denying the above allegations in the claim petition. The workman was working as a sub staff in the North Paravur branch of the management Bank. He collected amounts from 10 persons for remitting the same to the account of Kerala Building and other Construction Workers Welfare Board maintained in the North Paravur branch of the management Bank. He also made false entry in the pass books under fake initials. He misappropriated the money handed over to him by the above persons for remitting the same in the Bank account. The above said 10 persons gave written complaints regarding the incident. A charge sheet dt.30.04.2013 was issued to the workman. Since his explanation was not satisfactory, a domestic enquiry was conducted against the workman in respect of the acts of misconduct levelled against him in the charge sheet. The workman was granted an opportunity to take the assistance of a defence representative to defend him in the enquiry. He did not avail the opportunity. The witness list and the list of documents along with copies of documents were handed over to the workman in advance. The management examined one witness in the enquiry and marked 11 documents. The enquiry was conducted in compliance with principles of natural justice. The workman did not adduce any oral evidence but produced 10 documents being letters from the complainants withdrawing the complaint. The workman assured that those persons will be brought as witness to mark the documents. But he failed to do so inspite of granting him time. The workman submitted in the enquiry that he has no evidence to adduce. A copy of the enquiry report was furnished to the workman. The workman did not file any representation on the enquiry report. After considering the enquiry report and materials on record, the Disciplinary Authority concurred with the findings of the Enquiry Officer. The Disciplinary Authority also gave an opportunity of personal hearing to the workman. After hearing the workman, the Disciplinary Authority imposed the punishment of discharge from service with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment. The Appellate Authority rejected the appeal filed by the workman. The allegation against the workman was that he misappropriated the funds given by 10 illiterate persons to be deposited in the account of Kerala Building and other Construction Workers Welfare Board. It is not correct to say that the customers did not filed any complaint against the workman. The workman was found guilty of the misconduct after conducting an enquiry following the principles of natural justice. Though the workman was given opportunity to cross examine the management witness, he did not avail the same.

4. The workman filed replication denying the allegations in the written statement and also reiterating the claims in the claim application.

5. On completion of pleadings the Enquiry Officer was examined as MW1 and the enquiry file is marked as Exbt.M1.

6. The issues to be decided in this industrial dispute are;

1. Whether the departmental enquiry is conducted in a fair and proper manner following the principles of natural justice?
2. Whether the Enquiry Officer and Disciplinary Authority relied on admissible legal evidence and whether the findings are perverse?
3. Whether the punishment imposed proportionate to the charges proved against the workman ?
4. Relief and cost?

7. Issue no.1

The learned Counsels on either side after completion of pleadings pointed out that the issue regarding fairness of enquiry may be decided as preliminary issue. After hearing the Counsels elaborately and perusing the Exbt.M1 enquiry file, this Tribunal vide order dt.18.03.2021 found that the enquiry was conducted in a fair and proper manner following the principles of natural justice.

8. Issue no.2

The charge sheet dt.30.04.2013 issued to the workman alleged that he has misappropriated the money, handed over to him by 10 construction workers to be deposited in the account of Kerala Building and Other Construction Workers Welfare Board. On verifying the bank statement of Kerala Building and Other Construction Workers Welfare Board it was seen that no cash deposit of the amounts were made to the account of Kerala Building and Other Construction Workers Welfare Board and entries in the pass book were fraudulently made by the workman without actual remittance of cash. The workman entered the amount in the passbooks under his fake initials. Since the explanation offered by the workman was not satisfactory, the Management ordered a disciplinary enquiry into the charges, appointing an Enquiry Officer and a Presenting Officer. In the enquiry, the Branch Manager of the North Paravoor Branch was examined as a Management witness. He identified the complaints given by 10 persons to him with regard to the non-remittance of the contributions given by them to the workman to be deposited in the Kerala Building and Other Construction Workers Welfare Board. Their pass books with the corresponding entries were also produced with the complaints and marked in the enquiry. All the 10 complaints indicate that the welfare board contribution handed over to the workman and entered in their pass books by the workman are not reflected in the accounts and therefore they are remitting the subscription for the subsequent period along with earlier period, to regularize their membership. Since the complaints were given to the Branch Manager, his evidence was accepted and all the complaints along with copies of the pass books were marked in the enquiry. The Management also produced the statement of account of Kerala Building and Other Construction Workers Welfare Board. As per the above statement of accounts, the payments made by the complainants to the workman are not reflected in this statement. The workman did not cross examine the Branch Manager. In the proceedings dt.28.08.2014 the Enquiry Officer specifically asked the workman whether he would like to say anything on the documents marked through the Branch Manager. The workman replied that he has nothing to say. **Further he confirmed that the initials in the pass book of the complainants are his own against the disputed entries.** Hence it is clear that the workman received the money from the complainants, endorsed the pass books with his initials and failed to remit the same in the bank account of Kerala Building and Other Construction Workers Welfare Board.

9. One of the contentions raised by the learned Counsel for the workman was that 9 complaints were withdrawn by the respective complainants and they gave the same in writing and those letters were produced in the enquiry. However the Enquiry Officer did not mark the documents in the enquiry. The learned Counsel relying on the decision of the Division Bench of the Hon'ble High Court of Kerala in **Subramanian Pillai K. Vs Senior Divisional Manager, LIC and others**, 2009 3 KHC 787 argued that it is not necessary to examine the complainants to mark those documents in the enquiry. In the above case the Hon'ble High Court relying on the decision of the Hon'ble Supreme Court in **Roop Singh Negi Vs Punjab National Bank**, 2009 2 SCC 570 held that the evidence concluded during investigation by the Investigating Officer by itself could not be treated as an evidence in the disciplinary proceedings unless the witness concerned is examined in the proceedings. In the present case the Management examined the Branch Manager who received the complaints from the complainants and he confirmed through his evidence that the complainants stated before him that the subscription were given to the workman and he endorsed the payments in their pass book under his initial. Further the workman also admitted the entries in the pass books of the complainants and also the initials in the pass books. The learned Counsel for the Management also relied on the decision of the Hon'ble Supreme Court in **North West Karnataka Road Transport Corporation Vs H. H. Pujar** 2008 12 SCC 698 to argue that the standard of proof that is required in a departmental enquiry is that there was some evidence or was there no evidence, not in the sense of technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept.

10. From the available evidence discussed above, it is clear that the findings of the Enquiry Officer is based on proper and legal evidence adduced during the enquiry. The learned Counsel for the workman pointed out that the incident involved in the charge sheet and subsequent enquiry are meagre amounts and even if the charges are assumed to be proved, it is not a major misconduct warranting the punishment of discharge from service with superannuation benefits. According to the learned Counsel for the workman, even the allegation in the charge sheet is with regard to misappropriation of an amount to the tune of Rs.2574/- against non-remittance of subscription of 10 complainants. The learned Counsel for the Management relied on the decision of the Hon'ble Supreme Court in **Divisional Controller, KSRTC Vs A T Mane**, 2005 3 SCC

254 to argue that the quantum of money misappropriated is not a consideration while deciding the quantum of punishment. The Hon'ble Supreme Court held that

“Para 12. Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes primary factor for awarding punishment; on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. In our opinion, when a person is found guilty of misappropriating the Corporation's funds, there is nothing wrong in the Corporation losing confidence or faith in such a person and awarding a punishment of dismissal”.

The learned Counsel for the Management also relied on the decision of the Hon'ble Supreme Court in **Union Bank of India Vs Vishwa Mohan**, 1998 4 SCC 310 to argue that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and if this is not followed, the confidence of the public/depositors would be impaired. In this case the worker collected the subscription of 10 persons to be paid to the Kerala Building and Other Construction Workers Welfare Board, made false entries in their pass books under his initials and misappropriated the money received from the poor workers. Though the amount misappropriated is not very big, the Management Bank has a case that they lost confidence in the workman. Though the Management proposed a punishment of dismissal from service, after taking into account the submissions made by the workman before the Disciplinary Authority, the punishment was reduced to that of discharge from service with superannuation benefits.

I am of the considered view that the punishment imposed by the Disciplinary Authority/Appellate Authority of discharge from service with superannuation benefits is proportional to the charges proved against the workman.

11. Issue no.3

It is already found that the disciplinary enquiry was conducted in a fair and proper manner following the principles of natural justice and the findings of the Enquiry Officer is based on legal evidence produced in the enquiry. It is also found that the punishment imposed on the workman is proportionate to the charges proved against him. In view of the above, the workman is not entitled for any of the reliefs claimed in the dispute including reinstatement into the service of the Management with back wages and continuity of service.

12. Hence an award is passed holding that the workman is not entitled for reinstatement into the service of the Management and other consequential benefits.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 5th day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:- Nil

Witness for the Management:-

MW1 - Sri.T. V. Ganesh Kumar, dt.13.03.2020

Exhibits for the Workman:- Nil

Exhibits for the Management:-

M1 - Enquiry File

नई दिल्ली, 28 दिसम्बर, 2022

का.आ. 11.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 51/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.12.2022 को प्राप्त हुआ था।

[सं. एन-22011/46/2019 आई आर (सी.एम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 28th December, 2022

S.O. 11.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2021) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the Management of Food Corporation of India and their workmen, received by the Central Government on 12/12/2022.

[No. L-22011/46/2019 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT KANPUR

Present : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 51/2021

Ref. No. L-22011/46/2019 (IR(CM-II)) dated:07.11.2021

BETWEEN

1. Shri Binod Bhagat,
Labour Mate FCI/FSD,
Gonda & President of the FCI,
Mazdoor Union Gonda, UP,
Region C/o D.P.S.
Chauhan Adv., B-16, L Park Maha Nagar Extension,
Lucknow- 226006
2. Shri Sambhu Nath, S/o Late Suraj Narayan,
R/o Mohalla Porter ganj, Gonda, 271001.

AND

1. The General Manager,
FCI, Regional Office,
Vibhutikhannd, Gomti Nagar,
Lucknow – 226010
2. The Area Manager,
FCI, District Office,
Gonda (UP) -271001

AWARD

This award is delivered with reference to the Industrial Dispute referred to this Tribunal in notification no. L-22011/46/2019 (IR(CM-II)) dated 07/11/2021 issued by the Government of India Ministry of Labour & Employment as stated in the Schedule.

SCHEDULE

“1. Whether the action of the management of Food Corporation of India, Food Storage Depot, Gonda, in terminating petitioners in the Writ Petition no. 8853(MS)/2021 (List attached) decided by the Hon’ble High Court of Judicature at Allahabad, Lucknow Bench on 24/08/2021, and whose names have not been already included in the list referred vide Ministry’s Order L-22011/46/2019 – IR (CM-II) dated 13/01/2020 is illegal and in violation of section 25(F) of the Industrial dispute Act, 1947 or not?

2. Whether the petitioners of said Writ Petition no. 8853(MS)/2021 whose names have not been already included in the list referred vide Ministry’s Order of even number dated 13/01/2020 (list attached), are entitled to be regularized? If so, to what relief the concerned workers are entitled to?”

After receipt of the aforesaid reference by this Industrial Tribunal notices were issued to the concerned parties. Statement of claim was filed by claimants workmen namely Raj Ram Verma, Vijay Kumar, Mahesh Kumar and Pawan Kumar with averments which may be consciously stated as below:

The petitioners numbering 141 have claimed that under one camouflage contract they were working in the Food Storage Depot (hereinafter stated in short as the FSD, Gonda) of the FCI. From

10/06/1996 onwards till they were retrenched by virtue of gazette notification dated 23/04/2010 issued by the Government of India. It is averred by the petitioners that originally in FSD, Gonda licence was issued for engaging labourers numbering 40, 60, 150 but in reality 456 workers were engaged from 10/06/1996 to April, 2004. The workers were engaged under one camouflage contract. Depot Officer of FSD, Gonda Shri V. K. Malaviya had issued valid identity cards to all 456 workers. It is stated that the said list of 456 workers was verified and certified by the then Regional Labour Commissioner (Central), Lucknow on 16/12/1997. Subsequently the FCI stopped making payment to the said workers numbering 456 working in the FSD, Gonda. The said 456 workmen including the applicants preferred Writ Petition number 3783 (S./S.) of 1999 & 4170 (S./S.) before the Lucknow Bench of the Hon'ble Allahabad High Court. The said Writ Petitions were finally disposed of by order dated 18/09/2017 with directions for adjudication of the Industrial Dispute. It is submitted by the petitioners that the management of the FCI denied to pay salary to the petitioners engaged as contract labour though the usual work of loading, unloading, stacking, restacking, degassing, standardization, weighment, seeping, salvaging and cleaning inside the FSD, Gonda was done by the petitioners. The Assistant Labour Commissioner Central, Lucknow had inspected the Food Storage Depot, Gonda and in his report has stated that 434 workers were on duty and total number of workers 456 were engaged in FSD, Gonda from 10/06/1996. On 04/12/1999 the then Senior Regional Manager had dispatched a fax message to then District Manager, FCI, Gonda directing to ensure that only genuine labourers who had worked earlier in the depot as per the list annexed with Writ petition number 3783 (S./S.) of 1999 filed by Ram Nath and others were allowed to work. Initially the FCI management did not comply with the directions issued by the Hon'ble Allahabad High Court Lucknow Bench in Writ petition number 3783 (S./S.) of 1999 and Writ Petition number 4170 of 1999 and a contempt petition number 1412 (C) of 1999 was filed and one undertaking was given on behalf of the FCI on 08/01/2002 that the Gonda unit of the FCI could engage the petitioners as labourers in accordance with the system no work no pay. In furtherance of the orders passed by the Hon'ble Allahabad High Court Lucknow Bench on 01/10/2002 and 01/11/2002 the then Senior Regional Manager wrote a letter dated 09/01/2003 to the then District Manager FCI, Gonda for ensuring due compliance of the orders of the Hon'ble Allahabad High Court dated 01/10/2002 and 01/11/2002. Later another contempt petition was filed 828 (C) of 2005 was filed before the Hon'ble Allahabad High Court Lucknow Bench. On 09/05/2005 the then Senior Regional Manager wrote a letter to the Area Manager for engagement of Ram Nath Singh as the handling and transport contractor of Gonda Depot on day to day basis. Later on 23/05/2005 one bipartite settlement was arrived at between the FCI and representative of the workmen namely Shri Sadhu Chauhan in which it was agreed that the petitioners in Writ petition number 3783 (S./S.) of 1999 and Writ Petition number 4170 of 1999 were to be engaged as labourers on no work no pay system. One Kishor Gupta had challenged the settlement dated 23/05/2005 executed between the FCI and Workers' Union before the Hon'ble Supreme Court of India but the same was rejected. It is claimed by the petitioners that on 24/05/2005 they joined on no work no pay basis and had been continuously working till 23/04/2010. By notification dated 23/04/2010 the FCI retrenched the services of the workmen. Though the petitioners were doing work continuously in the FSD, Gonda under the management of the FCI, without compliance of the provision 25 B of the Industrial Disputes Act, 1947 (hereinafter stated in short as the Act) the claimants workmen were retrenched. To meet the labour deficiency one circular dated 09/06/2010 was issued and 245 workers were recruited by the FCI which otherwise proves that the work done by the retrenched petitioners was perennial in nature. With regard to recruitment of 245 workers the Deputy General Manager Legal North had written a detailed letter dated 22/11/2011 to the Executive Director Commercial wherein he had mentioned that recruitment of 245 workers was against the judgment of the Hon'ble Allahabad High Court Lucknow Bench. It has been submitted by the claimants workmen that they are legally entitled to be absorbed in the job of the FCI and are legally entitled to get unpaid wages for the period from July, 1998 to August 1999.

The written statement of the FCI has been submitted with averments which may be summarized as below:

There was no direct employer-employee relationship between the FCI management and the petitioners. The petitioners were not engaged against regular and sanctioned posts. After abolition of contract labour in the year 2010 no right had accrued in favour of the petitioners to be absorbed in the job of the FSD, Gonda. It is further stated that the petitioners were engaged through contractors and the provisions of section 25 B of the Industrial Disputes Act are not attracted in favour of the petitioners. It is pleaded by the O.P. side the applicants are fictitious persons and are trying to enter on job roll through back door entry. The documents stated to have been signed by K.M. Dubey Depot Manager on 23/05/2005 were manipulated papers. It has been averred by the O.P. that the applicants had not worked as contract labour for several years prior to 23/04/2010. The identity cards signed by

a person who had no authority cannot bind the FCI in any manner nor can do the identity cards confer any right in favour of the petitioners / claimants.

In the rejoinder the claimants have reiterated their claims.

For adjudication of the dispute the following points are to be answered.

The following points are to be answered for adjudication of the Industrial Dispute refer to this Tribunal:

1. Whether the claim of the claimants for disbursement of Rs. 42,00,000/- towards back unpaid wages along with interest is legally sustainable in view of the available evidence.

At para 58 of the claim application the claimants numbering 141 have claimed Rs. 42,00,000/- as wages for the period from July 1998 to August 1999 alongwith interest.

On behalf of the claimants it has been stated that on 02/08/1996 the General Manager FCI, UP appointed contractor Sri Ranjan Kumar Singh as Handling and Transport contractor for two years and his period was from 1.4.1996 to 31.3.1998, however contractor Sri Ranjan Kumar Singh obtained lesser labour license from the licensing authority i.e. Assistant Labour Commissioner (Central), Lucknow only in respect of the "60" persons and work was taken regularly from the "456" workers, thus the contract was camouflage, hence relationship between the FCI and petitioners is established as master and servants respectively.

From 01.6.1998 to 30.6.1998 the FCI, appointed another contractor Sri Shiv Poojan Singh for two years from 1st April to 31.3.2000 and contractor was paid wages for the 456 petitioners of writ petition No. 3783 of 1999 and 4170 of 1999 for the period of 1.6.1998 to 30.6.1998.

From February 1997 to June 2006 work was done by the petitioners of writ petition No. 3783 of 1999 and 4170 of 1999.

On dates 30.7.1999, 12.8.1999, 14.9.1999 and 20.9.1999 the Hon'ble High Court of Allahabad was pleased to pass interim orders and order dated 20.12.1999 directed the FCI authority that the petitioners shall not be discontinued from contract labour till issuance of notification under section 10 (1) of the CLRA Act, and to pay them due wages.

On date 4.12.1999 the General Manager FCI, Lucknow has sent a Fax to the then District Manager FCI, Gonda by which it was accepted that the petitioners of writ petition No. 3783 of 1999 were genuine workers of the FCI, Gonda and were allowed to work at FCI, Gonda.

In the investigation Report dated 31.1.2000 the General Manager FCI, UP has himself made investigation pursuant to the Hon'ble High Court order dated 15.12.1999 by a committee of the three class one officers at Regional Office Lucknow regarding Payment done or not to the 456 petitioners from "July 1998 to August 1999". The committee officers had found contractor and FCI, authority in connivance had cheated the petitioners as well as Food Corporation of India, and not paid their wages.

The petitioner numbering 141 had also approached the Hon'ble High Court of Allahabad in Writ Petition No. 8853(M.S.) 2021. In the said Writ Application the list containing their names and respective ages of the petitioners and their addresses has been furnished. A copy of the said list containing the names of Shambhu Nath Mate (Sardar), Vijay Kumar Mate (Sardar), Mahesh Kumar Mate (Sardar), Raja Ram Verma and others has been submitted before this Tribunal. In the said list at serial no. 21 Ram Narayan aged about 35 years is found. If Ram Narayan in 2021 is 35 year old, his age in 1998 will be 12 years, much below the age of majority. A boy of 12 years can never be permitted to work in a Government of India undertaking as labourer. At serial no. 32 name of Manoj Kumar alias Manjit Kumar aged about 34 year is found, age of this claimant in 1998 will be 11 years. It is highly improvable that a boy of 11 years can be permitted to work as labourer. At serial no. 19 Arjun Kumar aged about 37 years is found. If Arjun Kumar in 2021 is 37 year old his age in 1998 will be 14 years much below the age of majority. At serial no. 35 Udai Kumar aged about 37 years is found. If Udai Kumar in 2021 is 37 years old his age in 1998 will be 14 years, much below the age of majority. At serial no. 50 Ajit Kumar aged about 37 years is found. If Ajit Kumar is Thirty Seven years old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 53 Prabhash Kumar aged about 35 years is found. If Prabhash Kumar is 35 year old in 2021 his age in 1998 will be 12 years, much below the age of majority. At serial no. 73 Gavinder Yadav aged about 37 years is found. If Gavinder Yadav is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 75 Pramod Kumar aged about 34 years is found. If Pramod Kumar is 34 year old in 2021 his age in 1998 will be 11 years, much below the age of majority. At serial no. 77 Mahesh aged about 36 years is found. If Mahesh is 36 year old in 2021 his age in 1998 will be 13 years, much below the age of majority. At serial no. 80 Birju aged

about 37 years is found. If Birju is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 88 Santosh Kumar aged about 37 years is found. If Santosh Kumar is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 93 Zalim Yadav aged about 37 years is found. If Zalim Yadav is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 96 Digraj Singh aged about 36 years is found. If Digraj Singh is 36 year old in 2021 his age in 1998 will be 13 years, much below the age of majority. At serial no. 97 Awadh Kumar aged about 37 years is found. If Awadh Kumar is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 98 Ram Narayan aged about 35 years is found. If Ram Narayan is 35 year old in 2021 his age in 1998 will be 12 years, much below the age of majority. At serial no. 105 Mustafa aged about 37 years is found. If Mustafa is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 106 Uday Kumar aged about 35 years is found. If Uday Kumar is 35 year old in 2021 his age in 1998 will be 12 years, much below the age of majority. At serial no. 113 Girish Kumar aged about 37 years is found. If Girish Kumar is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 114 Kamlesh aged about 34 years is found. If Kamlesh is 34 year old in 2021 his age in 1998 will be 11 years, much below the age of majority. At serial no. 116 Chhote Lal aged about 37 years is found. If Chhote Lal is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 118 Lachhan aged about 37 years is found. If Lachhan is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 123 Sadhu aged about 37 years is found. If Sadhu is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 125 Maiku Lal aged about 37 years is found. If Maiku Lal is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority. At serial no. 128 Devi Lal aged about 34 years is found. If Devi Lal is 34 year old in 2021 his age in 1998 will be 11 years, much below the age of majority. At serial no. 135 Ram Khelawan aged about 37 years is found. If Ramkhelawan is 37 year old in 2021 his age in 1998 will be 14 years, much below the age of majority.

The above stated petitioners as logically presumed to be 15 to 16 years old in 1998. The persons who were below 18 years are never allowed to work in a depot of the Government of India controlled undertaking. Uday Kumar is stated to be 35 years in 2021 and as such his age was much below majority is year in 1998. The claims made by the petitioners that the aforesaid claimants had worked in the Food Storage Depot, Gonda from 1998 to 1999 are found to be fictitious and unsustainable by any stretch of argument. Since Sambhu Nath and other claimants who appeared before this Tribunal as witnesses spearheading the claims of some of the petitioners who were found to be fictitious claimants raising false claims to had worked in the FSD, Gonda it can be logically held that the whole claims for Rs. 42,00,000/- as made by Sambhu Nath, Vijay Kumar and others is legally unsustainable. After all, a person claiming any relief before a Tribunal has to approach with very clean hands, slightest doubt is likely to jeopardize the truthfulness of the claim.

The point no. 1 is answered against the petitioners.

Point No. 2. Whether the claimants applicants are legally entitled to regularization on the job of the FCI, Gonda FSD.

In the forgoing discussions it has been concluded that many of the claimants were minors up to 1998, up to 2000. Their claim that they were doing job in the FSD, Gonda is highly doubtful and unbelievable. With some documents authenticity of which has not been clearly proved their claims for regularization in the FCI, Gonda Depot is reduced feeble. Merely because the CMD of the FCI exonerated Deputy General Manager Legal in the departmental proceedings will not lead to one unescapable conclusion that the claimants numbering 141 alleged workers were actually working in the FCI, Gonda. At this point it appears pertinent to state that though the claimants claim that they were working under contractor witness Vijay Kumar states that he was not engaged as labourer through contractor. In his deposition he has stated his post as labourer. The deposition of this witness Vijay Kumar clearly gives out impression that his claim for regularization is based on prevaricating stand which is not acceptable as strong evidence in support of his claim for regularization. Though Brij Kumar Agrawal then Senior Regional Manager of the FCI, Lucknow had submitted affidavit before the Hon'ble High Court of Allahabad the same will not go to prove that the claimants were actually working as labourers in FSD, Gonda. Similarly, the report of the Area Manager FCI, Gonda dated 01/10/2002 and 01/11/2002 cannot be read as substantive evidence in favour of the claimants petitioners that they were actually working in the FSD, Gonda. From a reading of the whole evidence adduced before the Tribunal with preponderance of high probability and impression can be gathered that the necessity of engaging extra labourers was not perennial but occasional and the FCI Management might have engaged the casual workers to meet the need of the hour. One clear

impression from the evidence is found that those workers were casual workers. Even the spirit of the case law Steel Authority of India Vs. National Waterfront Workers Union will not bolster up the claim for regularization of the petitioners. At the cost of repetition it can be stated here that when many of the petitioners were below the age of majority at the time of engagement as claimed by them, their claims for regularization is found to be shrouded suspicious circumstances.

In view of the spirit of the case law 2009 (120) FLR 491 Special Appeal No. 859 of 2008 between Sarvan Kumar and State of U.P. and others, In 2013 (136) FLR 113 W.P. (C) No. 38836 of 1998 between Subodh Kumar and Presiding Officer, Labour Court –II, Meerut and another, In 2007 (112) FLR 1208 Civil Misc. Writ Petition No. 15776 of 2004 between Pragi Lal (Mate) and others and State of U.P. and another the claim of the petitioners for regularization is impermissible. The point is answered against the petitioners.

Point No. 3: Since many of the claimants were found to be minors on the date of their engagement as claimed by the petitioners and a conclusion has been arrived that the claim for payment of unpaid wages and claim for regularization are shrouded with doubtful truthfulness they are not entitled for any kind of relief.

In view of the peculiar circumstances of the case parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 2 जनवरी, 2023

का.आ. 12.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट संदर्भ सं. (10/2017) को प्रकाशित करती है।

[सं. एल-12025/01/2022आई आर (बी-1)-12]

ए. के. यादव, अवर सचिव

New Delhi, the 2nd January, 2023

S.O. 12.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.10/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2022–IR(B-1)-12]

A. K YADAV, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT AT HYDERABAD

Present : Sri V. VIJAY KUMAR, LLM Presiding Officer

Dated the 11th day of May, 2022

INDUSTRIAL DISPUTE LC No. 10/2017

Between:

Sri A. Lakshminarayana,
S/o. A. Sunkanna,
R/o H.No.23/91, Kondapeta,
Dhone, Kurnool Dist.- 518 222.

....Petitioner

AND

1. The Regional Manager,
State Bank of India, Region II, NW-3,
Regional Business Centre, Vishnu Sai Enclave,
Main Road, Venkataramana Colony,
Kurnool – 518 003.
2. The Deputy General Manager (B & O),
Appellate Authority,
State Bank of India,
Administrative Office,
Tirupathi – 517 501.

....Respondents

Appearances:

For the Petitioner : M/s. B.K.M. Chakravarthy & B.P. Mamta, Advocates
For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The claim petition is filed under Sec.2A(2) of the Industrial Disputes Act, 1947 seeking to set aside the order of Disciplinary Authority, the first Respondent, dismissing the workman from the service of the management vide order dated 6.8.2015 and also the order of the Appellate Authority dated 26.2.2016 rejecting the appeal and praying to reinstate him into service with all consequential benefits.

2. The matter was posted on 11.5.2022 for the management to produce documents on their behalf. The workman entered appearance through his counsel. He was also personally present in the proceedings. The workman filed an affidavit dated 10.5.2022 seeking permission to withdraw the industrial dispute in view of his ill-health due to paralysis attack.

3. Heard the counsels and the petition to withdraw the industrial dispute as sought by the workman is allowed.

4. Hence, an award is passed allowing the workman to withdraw the industrial dispute as not pressed.

Award is passed accordingly. Transmit.

Dictated to Smt P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 11th day of May, 2022.

V. VIJAY KUMAR, Presiding Officers

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जनवरी, 2023

का.आ. 13.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट संदर्भ स. (02/2016) को प्रकाशित करती है।

[सं. एल-12011/68/2015 आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 2nd January, 2023

S.O. 13.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 02/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/68/2015– IR(B-1)]

A. K. YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT, ERNAKULAM

Present: Shri. V. VIJAYA KUMAR, B. Sc, LLM, Presiding Officer.

(Wednesday the 30th day of March 2022, 9 Caitra 1944)

ID No.02/2016

Workman/Union : The Deputy General Secretary
State Bank's Staff Union
(Kerala Circle)
Kozhikode Sub Office, C/o SBI
Administration Office
Kozhikode - 673002

By Adv.V. V. Surendran

Management : The General Manager
State Bank of India
Network-II, Local Head Office
Trivandrum - 695001

By Adv.B.S.Syamanthak

This case coming up for final hearing on 21.03.2020 and 01.07.2021 and this Industrial Tribunal-cum-Labour Court on 30.03.2022 passed the following:

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No. L-12011/68/2015-IR(B-I) dated 11.12.2015 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

“Whether the decision of the Appellate Authority to impose the punishment of bringing down to the lower most stage in the pre-revised scale of pay of Rs.4,410/- treating the period from the date of punishment till reinstatement as not on duty is justifiable? If not, What relief the Union/workman is entitled to receive?”

3. According to the learned Counsel for the workman, on 28.02.2009 the workman was working as cashier in charge of Single Window counter. His duty was to receive cash upto Rs.50,000/- and disburse upto Rs.1,00,000/-. On 28.02.2009, one employee of M/s.Mahindra Finance came to remit an amount of Rs.3,51,797/- as per 3 vouchers. Normally the bulk notes and cash by firms are received at Bulk Receipt counter. The customer by mistake brought the cash to the Single Window counter and tendered the money. The workman accepted the bundle to help the customer. While the notes were being counted, other customers objected to the same and thereof the workman was forced to return the amount and the vouchers to

the customer to remit the amount in the appropriate counter. Accordingly the customer took the cash to another counter and there it was found that Rs.30,000/- (30 pieces of 1000 rupee notes) was missing and he informed the Manager and left the Bank. On 02.03.2009 the customer gave a written complaint and a thorough check was conducted in the counter of the workman. The currency notes were found lying beneath the table of the workman and it was recovered. The notes would have accidentally fallen and slipped under the table while counting started or while returning the note bundles to the customer. The CCTV has also recorded the same. The workman was served with a show cause notice. He gave his reply on 17.03.2009. Again another show cause notice was served on the workman on 08.05.2009. The workman replied the second show cause notice also. The workman was charge sheeted on 12.10.2009. The workman filed his reply to the charge sheet also. The Management appointed an Enquiry Officer and the Enquiry Officer after considering the evidence found that the charges are proved and the workman was guilty of gross misconduct. The Disciplinary Authority without hearing the workman, imposed a major penalty of removal from service of the workman vide order dt.09.04.2011. The incident could only be an accident and not intentional, in as much as, the workman has not gained anything. There is no financial loss to the bank. After receipt of the communication of imposing the penalty of removal from service, the workman submitted an appeal to the Appellate Authority, the Deputy General Manager (O&C). The appeal was considered by the Appellate Authority and reduced the punishment of 'removal from service' as 'brought down to lower most stage in the pre-revised scale of pay of Rs.4,410/- treating the period from the date of punishment till reinstatement as not on duty' as per the order dt.29.09.2011. The workman was reinstated at Ramanattukara Branch. The workman filed a representation to the General Manager but the same has been declined stating that the decision of the Appellate Authority is final. The Deputy General Manager vide his letter dt.18.04.2013 has recommended the reduction of penalty further, taking into account the circumstances of the case and the plight of the workman. The workman retired from service on 31.07.2014 after completing 17 years of service. In view of the penalty of demotion to the lowest scale of pay, he is only getting very low pension. The decision of imposing penalty of demotion to the lowest scale of pay is illegal and is contrary to the provisions of Memorandum of Settlement in respect of Award staff dt.10.04.2002. As per the terms of Clause 6(e) in respect of employee found guilty of gross misconduct, the punishment of increment cut is proposed as 'be brought down to lower stage in the scale of pay upto a maximum of two stages'. In the present case the workman has been brought down to the lower most pay scale, that too in the pre-existing pay. The punishment imposed by the Appellate Authority is therefore unsustainable and is liable to set right. The allegation against the workman, the charge against him and the enquiry conducted are all faulty and illegal. The enquiry, the framing of charge, the proceedings of Enquiry Officer, the finding in the report, the finding of the authority and the disciplinary action are all liable to be set aside. The penalty imposed is highly disproportionate to the charges against him.

4. The Management filed written statement denying the above allegations. The industrial dispute is not maintainable either in law or facts as the workman retired from service of the Bank on 31.07.2014 and hence he is not a member of the State Bank Staff Union. The State Bank Staff Union has no locus standi to file the industrial dispute. The Appellate Authority issued the order on 29.09.2011 and the Union raised the dispute only in the year 2015. Hence it is liable to be dismissed on the ground of inordinate delay. The Management Bank initiated disciplinary proceedings against the workman for certain acts of gross misconduct prejudicial to the interest of the Bank while he was acting as cashier at Tirur Branch of State Bank of India during the period from 14.01.2008 to 12.10.2009. He was found negligent in handling the cash amounting to Rs.3,51,797/- tendered by an employee of M/s. Mahindra Finance on 28.02.2009 for credit of their account with the Branch. The workman accepted the cash, started counting the same but after a while he returned the cash and related vouchers for presenting before another counter. When the cash was tendered at another counter, the assistant who was in charge of that counter found that there was a shortage of Rs.30,000/-. Though the shortage was brought to the notice of the workman immediately, he confirmed that he did not have any excess cash with him. The said notes were retrieved from the floor below his counter drawer after 3 days i.e., on 02.03.2009. The workman was given a show cause notice. In response, vide his letter dt.17.03.2009 the workman practically admitted the irregularity. The Management therefore issued a charge sheet dt.12.10.2009. The Management also appointed an Enquiry Officer and Presenting Officer to conduct the enquiry. The Enquiry Officer conducted the enquiry in total compliance of the principles of natural justice after affording full and ample opportunity to the workman to establish his innocence. The workman participated in the enquiry. The Enquiry Officer after considering the evidence and materials on record found that charges levelled against the workman are proved. The workman was served with a copy of the enquiry proceedings and report. The Disciplinary Authority examined the enquiry report and the entire evidence and materials on record. The Disciplinary Authority found that the charges are proved based on the evidence adduced in the enquiry. The observations of the Disciplinary Authority was communicated to the workman on 08.03.2011. The workman was afforded with an opportunity of personal hearing on 17.03.2011 and he submitted a written explanation. After considering the representation, the Disciplinary Authority imposed the punishment of removal from service with superannuation benefits i.e., pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment vide his order dt. 09.04.2011. The workman has not

challenged the finding of guilt in the enquiry report and the order of the Disciplinary Authority that the workman is found guilty for charges leveled against him. His only request was to reverse the order of removal from service and allow him a chance to serve the Bank. There was no challenge against the enquiry proceedings or enquiry report. The Appellate Authority considered the appeal objectively, applying his mind to the facts, evidence and materials on record, reduced and modified the punishment by bringing down the workman to the lower most stage in the pre-revised of pay of Rs. 4410/- (corresponding revised pay scale of pay Rs. 7200/- as per 9th Bipartite Settlement). The Appellate Authority modified the punishment only on the ground of economically and socially backward status of the workman and his family. With regards to the period spent by him after removal from service in terms of the order of punishment dt. 09.04.2011 till his reinstatement, the same is to be treated as 'not on duty' and the workman is not eligible for or derived any benefit such as salary, leave, leave encashment, medical facility, pension, gratuity or provident fund. The decision of the Appellate Authority dt. 29.09.2011 was communicated to the workman vide order dt. 04.10.2011. The workman filed an application before the General Manager (Network II) with a request to re-examine the decision of bringing down the basic pay to the lowest stage of the scale on the basis of the Bipartite Settlement. The representation was rejected by the General Manager. The entire disciplinary proceedings from the stage of issuance of charge sheet to the conclusion of the appeal by the Appellate Authority is conducted in a fair manner complying with the principles of natural justice. The punishment awarded to the workman is commensurate with the gravity of charge proved against him. The workman has retired from service of the Bank on 31.07.2014 and hence he cannot continue as a member of the State Bank Staff Union. The workman himself has given a statement on 17.03.2009 admitting his guilt. The workman was expected to take due care and caution while dealing with the currency notes, that too in transactions with the customers of the Bank. The workman has challenged only the penalty portion of the order of the Disciplinary Authority. The recommendation of the Deputy General Manager to the General Manager vide letter dt. 18.04.2013 is not relevant as there is no scope for review or revision of an order issued by the Appellate Authority. The contention of the workman that the decision imposing penalty of demotion to the lowest scale of pay is illegal and is contrary to the provisions of Memorandum of Settlement in respect of Award staff dt. 10.04.2002 in respect of an employee found guilty of gross misconduct, is not correct. The terms of Bipartite Settlement cannot be interpreted in such a way so as to take away the spirit of the appeal. The Appellate Authority has reduced the major penalty of 'removed from service' imposed by the Disciplinary Authority to that of 'reduction to lower most stage in the pre-revised scale of pay of Rs. 4,410/-'. It is within the competence of the Appellate Authority to either agree with the decision of the Disciplinary Authority or reduce the punishment. The Bipartite Settlement cannot be a fetter on the powers of the Appellate Authority. The charges against the workman are very grievous, affecting the prestige, reputation and credibility of the Management Bank and the confidence of general public in the Bank. The punishment imposed by the Appellate Authority is just and proportionate to the charges proved against the workman.

5. The workman filed rejoinder denying the allegations in the written statement filed by the Management. The workman is a member of the Union and the Union has taken up his cause. Action was initiated against the workman on the basis of a complaint filed by a customer. The Disciplinary Authority after considering the report of the Enquiry Officer imposed a penalty of removal from service with superannuation benefits as could be due other wise under Rules or Regulation prevailing at the relevant time and without disqualification from future employment as per Rules 6(b) of the Memorandum of Settlement on Disciplinary Action Procedure for workmen dt. 10.04.2002. In the appeal filed before the Appellate Authority, the punishment was reduced to lower most stage in the pre-revised scale of pay of Rs. 4,410/- treating the period from the date of punishment till reinstatement as 'not on duty'. The workman filed a mercy petition before the General Manager. The General Manager vide letter dt. 28.08.2013 declined the request holding that the decision of the Appellate Authority is final. The Deputy General Manager vide his letter dt. 18.04.2013 recommended that the punishment can be reduced as per Rule 6(e) of the Memorandum of Settlement on disciplinary action and procedure for workmen staff dt. 10.04.2002. The workman retired from the service of the Management Bank on 31.07.2014. The decision of the Appellate Authority imposing the penalty of demotion to the lowest scale of pay has made the workman suffer severely in his retirement benefits including Pension. As per Clause 6(e), in respect of employee found guilty of gross misconduct, the increment cut is proposed as 'be brought down to lowest in the scale of pay upto a maximum of two stages'. In the present case the workman has been brought down to the lower most pay scale that too in the pre-existing pay.

6. After completion of pleadings, the enquiry report and the related files are marked by consent as Exbt.M1(a), M1(b) and M1(c). The workman also produced 7 documents. These documents are also marked by consent as Exbt.W1 to W7. The Management filed an I.A. stating that due to an inadvertent mistake the CD containing the CCTV backup data for 28.02.2009 and 02.03.2009 which was part of Exbt.M1 file was not enclosed along with the file and therefore pleaded that the same may be accepted as part of the Management evidence. The CD containing the CCTV backup dt. 28.02.2009 and 02.03.2009 being part of Exbt.M1 file, was accepted into this proceedings.

7. The learned Counsel for the Management raised a preliminary issue that the industrial dispute is not maintainable. Accordingly the issues to be decided in this industrial dispute are ;
 1. Whether the industrial dispute is maintainable ?
 2. Whether the punishment awarded to the workman is proportionate to the charges leveled against the workman ?
 3. Relief and cost ?

8. **Issue no.1**

The learned Counsel for the Management submitted that the workman retired from the service of the Management Bank on 31.07.2014. He ceased to be a workman with effect from that date. According to Sec 2(s) of Industrial Disputes Act, 1947

“ Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) who is subject to the Air Force Act, 1950 or
- (ii) who is employed in the Police service or as an officer or
other employees of a person or
- (iii) who is employed mainly in a managerial or administrative capacity or
- (iv) who, being employed in a supervisor capacity, draws wages exceeding 1600/- per mensem or exercises, either by the nature of the duties attached to the officer or by reason of the powers vested in him, functions mainly of a managerial nature”.

The first part of the definition gives the statutory meaning of the workman. The 2nd part is designed for persons who have been dismissed, discharged or retrenched in connection with an industrial dispute and 3rd part specifically excludes certain category of employees. In this particular case the contention of the learned Counsel for the Management is that since the workman retired from the service of the Management Bank w.e.f. 31.07.2014, he cannot be treated as a workman for the purpose of the Industrial Disputes Act. According to the learned Counsel for the Union, the industrial dispute is a continuation of proceedings initiated by the Management vide charge sheet dt.12.10.2009 when the workman was in employment of the Management Bank. The only thing is that the disciplinary proceedings and the challenge of the imposition of penalty against the workman continued beyond his date of retirement. Hence in this case the workman is entitled to challenge the order of the Appellate Authority in this proceedings. The learned Counsel for the Management relied on the decision of the Division Bench of the Hon'ble High Court of Kerala in **Everestee Vs District Labour Officer**, 1999 2 LLJ 147. In the above case the workman raised an industrial dispute after he took voluntary retirement from the service of the Management with regard to the difference in the retirement benefits between himself and his colleagues. The Hon'ble High Court held that “ In our opinion, the appellant, having voluntarily tendered his resignation pursuant to a scheme for voluntary retirement, the resignation having been accepted by the management and all the benefits arising out of such resignation has been paid by the Management and received by the appellant, he cannot be treated as a ‘workman’ coming U/s 2(s) of ID Act ”. In the present case as rightly pointed out by the learned Counsel for the workman, the dispute started with the issuance of charge sheet on 12.10.2009. The matter has gone through the regular procedure of enquiry, action by the Disciplinary Authority and Appellate Authority. In this case even after the decision by the Appellate Authority, the workman filed a mercy petition before the General Manager which was rejected on the ground that the decision of the Appellate Authority is final and no further review is permitted as per rules. The review application was rejected vide communication dt.28.08.2013 and the workman raised the industrial dispute thereafter. Technically a retired employee cannot be treated as a workman as held by the Division Bench of the Hon'ble High Court of Kerala. However in the present case since the proceedings by the Disciplinary, Appellate and Review Authority continued till the retirement of the workman, it is not fair to reject the industrial dispute on the ground of non maintainability.

Hence I am of the considered view that in view of the facts and circumstances of this case, the industrial dispute is maintainable.

9. **Issue no.2 & 3**

As per the reference received from the Govt, the industrial dispute referred is “Whether the decision of the Appellate Authority to impose the punishment of bringing down to the lowermost stage in the pre-revised scale of Rs.4,410/- treating the period from the date of punishment till reinstatement as ‘not on duty’ is justifiable? If not, what relief the Union/workman is entitled to receive?”. The Management Bank initiated action against the workman vide charge sheet dt.12.10.2009. According to the charge sheet;

1. You were negligent in handling the cash tendered by the employee of M/s.Mahindra Finance on 28.02.2009, for credit of their account with the Branch. Although you accepted the cash amounting to Rs.3,51,797/- and started counting the same, after a while you returned the cash and the relative vouchers to Sri.Sujith. When the cash was then tendered at the counter of Sri.V.Sunil, Assistant he observed that there was a shortage of Rs.30,000/- (30 pieces of Rs.1000/- denomination). Although the shortage was brought to your notice immediately, you confirmed that you did not have any excess cash. In the evening of 02.03.2009, 30 pieces of 1000 denomination notes were retrieved from the floor below your counter drawer.
2. While returning the cash and vouchers to the customer, you did not ensure that the entire cash tendered by the customer was returned to him.
3. While confirming that there was no excess cash in your counter, you did not make proper verification “

In the disciplinary enquiry that followed the Enquiry Officer found that the charges against the workman are proved. The Disciplinary Authority accepted the finding of the Enquiry Officer and after getting the comments from the workman imposed a penalty under Rule 6(b) of the Memorandum of Settlement on disciplinary action on workman dt.10.04.2002, by imposing a penalty of removal from service with superannuation benefits pension and/or provident fund or gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time and without disqualification from future employment. The workman preferred an appeal and the Appellate Authority vide order dt.29.09.2011 reduced the punishment from “removal” to ‘be brought down to the lower most stage in the pre-revised scale of pay of Rs.4,410/- (corresponding revise scale of pay Rs.7200/- as per the 9th bipartite settlement)’. The workman thereafter filed a mercy petition before the General Manager which was rejected vide letter dt.28.08.2013 on the ground that in terms of extend instructions the appeal procedure for award staff ends with Dy. General Manager (B&O) and no further review is permitted.

10. In these proceedings though the learned Counsel for the workman pleaded that the enquiry was not conducted in a fair and proper manner, the same was not seriously pursued by him. According to the learned Counsel for the workman, the punishment imposed by the Appellate Authority on the proved charges is not proportionate to the charges proved against the workman. According to him the charge alleged against the workman is only that of negligence which is of not that serious nature. The learned Counsel for the Management on the other side pleaded that the charges against the workman are very grievous, affecting the very prestige, reputation and credibility of the Management Bank and the confidence of the general public.

11. In this particular case the Disciplinary Authority imposed a penalty of removal from service. The Appellate Authority has taken a lenient view and reduced the punishment of bringing down the workman to lower most stage in the pre-revised scale of pay out of Rs.4,410/-. According to the learned Counsel for the workman as per the award staff provisions for disciplinary proceedings settlement dt.10.04.2002 Rule 6(e), the major penalty that can be imposed on the workman is ‘be brought down to lowest stage in the scale of pay to a maximum of two stages’. However in the present case the punishment imposed by the Appellate Authority is ‘be brought down to the lower most stage in the pre-revised scale of pay of Rs.4,410/-’. According to the learned Counsel for the workman, the punishment imposed by the Appellate Authority is not in terms of the rules. He further pointed out that the consequence of the punishment now imposed on the workman is that the retirement benefit such as pension is reduced drastically which is disproportionate to the charges proved against the workman. The learned Counsel for the workman also relied on Exbt.W6 letter dt.18.04.2013 given by Deputy General Manager to the General Manager (Network II) recommending the case of the workman and with a request to reduce the penalty as per Rule 6(e) of the Settlement.

12. The learned Counsel for the Management argued that this is not a case coming U/s 11(A) of the ID Act and this Tribunal may not interfere with the punishment imposed by the Appellate Authority which is proportionate to the charges proved against the workman.

13. It is a settled legal position that the powers of Industrial Courts to interfere with the punishment awarded by the Disciplinary Authority or Appellate Authority is very limited. In the present case, the disciplinary enquiry against the workman is conducted in a fair and proper manner. The finding of the

Enquiry Officer is also based on the evidence produced before him. Having found that the enquiry is conducted in a fair and proper manner and the finding is based on legal evidence, it is not fair on the part of this Tribunal to interfere with the quantum of punishment awarded by the competent authority. In this case as already pointed out, the Disciplinary Authority has imposed a punishment of removal from service with superannuation benefits, the Appellate Authority reinstated the workman into the service of the Bank and his basic pay was brought down to the lower most stage of the clerical scale. In such a situation it is not possible to accept the case of the learned Counsel for the workman that the punishment ought to have been restricted to Rule 6(e), bringing down to lower stage in the scale of pay upto a maximum of two stages. When the Appellate Authority applied his mind to the facts, circumstances and pleadings of the case and took a conscious decision to reduce the penalty, it cannot be argued that the same is not in accordance with the provisions of Disciplinary Proceedings Settlement dt.10.04.2002. It is also seen that the punishment now awarded by the Appellate Authority will have a huge impact on the retirement benefits of the workman. However it cannot be held that the punishment is atrociously disproportionate to the charges proved against the workman, warranting an interference by this Tribunal.

The punishment imposed by the Appellate Authority on the workman is proportionate to the charges proved against the workman. Hence the issue is decided in favour of the Management and against the workman.

14. Hence an award is passed holding that the decision of the Appellate Authority to impose the punishment of bringing down to the lower most stage in the pre-revised scale of pay of Rs. 4,410/- treating the period from the date of punishment till reinstatement as 'not on duty' is fair, legal and justifiable.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 30th day of March, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:- Nil

Witness for the Management:-Nil

Exhibits for the Workman:-

- W1 - True copy of the order dt. 09.04.2011 and the covering letter
- W2 - Copy of the appeal submitted by the workman to the Appellate Authority
- W3- True copy of the order dt. 29.09.2011 and the communication dt.04.10.2011 reinstating the workman at Ramanattukara branch
- W4 - True copy of the representation as mercy petition to the General Manager
- W5 - True copy of the communication dt.28.08.2013
- W6- True copy of the communications by the Dy. General Manager to the General Manager dt. 18.04.2013
- W7 - True copy of the Staff Award (Memorandum of Settlement) dt. 10.04.2002

Exhibits for the Management:-

- M1(a)-(c) - Enquiry file

नई दिल्ली, 2 जनवरी, 2023

का.आ. 14.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ सं. (38/2021) को प्रकाशित करती है।

[सं. एल-12025/01/2023 -आई आर (बी-1)-01]

ए. के. यादव, अवसर सचिव

New Delhi, the 2nd January, 2023

S.O. 14.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.38/2021) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2023– IR(B-1)-01]

A. K. YADAV, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/38/2021

Present: P.K. SRIVASTAVA, H.J.S.(Retd.)

Shri Santosh Malviya & other 51 Workers,
House Number 43, Pipelner,
Gandhi Nagar, Bhopal,
Madhya Pradesh – 462036.

... Workman

Versus

The Assistant General Manager,
(ATM Operation),
State Bank of India,
Local Head Office, Hoshangabad Road,
Bhopal, Madhya Pradesh – 462010

M/s Bakshi Security & Personnel Services Pvt. Ltd.,
Unit No.234/235, Bldg. No. 2,
New Sonal Link Ind. Estate, Link Road, Malad (W),
Mumbai (Maharashtra) – 400064.

... Management

AWARD(Passed on this 12th day of October-2022)

1. As per letter dated 24/08/2021 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. J-1(1-10)/2021-IR. The dispute under reference relates to:

- (1) "क्या अनावेदकगण द्वारा श्री संतोष मालवीय एवं 51 अन्य कर्मकार / केयरटेकर (जो कि परिशिष्ट "क" में वर्णित है) को दिनांक 28.02.2019 से सेवा से निष्कासित किया जाना न्यायोचित है ? यदि नहीं, तो वह किस अनुतोष को पाने के अधिकारी है ?"
- (2) "क्या अनावेदकगणों द्वारा श्री संतोष मालवीय एवं अन्य 51 कर्मकार / केयरटेकर (ठेका कर्मी) को चार माह 01.11.2018 से 20.02.2019 की अवधि का वेतन एवं सितंबर एवं अक्टूबर की बकाया वेतन राशि का न दिया जाना न्यायोचित है ? यदि नहीं, तो उक्त कर्मकार कितनी राशि पाने के अधिकारी है ?"

2. After registering the case on the basis of reference, notices were sent to the parties on addresses' mention in the reference. Management No. 1 & 2 appeared. None appeared for Workman inspite of service of speed post. Many dates were given for filling of Statement of Claim. No Statement of Claim was filed. The opposite parties also did not file any Written Statement of Defence.

3. Since the initial burden to prove its case is on the workman side in which he has failed. Hence the reference deserves to be answered against him and is answered accordingly.

4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, Presiding Officer

DATE: 12-10-2022

नई दिल्ली, 4 जनवरी, 2023

का.आ. 15.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 116/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2022 को प्राप्त हुआ था।

[सं. एल-23012/115/2018-आई आर (सी.एम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th January, 2023

S.O. 15.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 116/2018) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 20/12/2022.

[No. L-23012/115/2018— IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No.116/2018

Registered on:-21.01.2019

Smt. Mathra Devi & Others Village Dahnu,
P.O. Sidhyani, Tehsil Sundernagar, Distt. Mandi,
Himachal Pradesh-175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B,
Chandigarh-160019.
 2. The Chief Engineer,
Bhakra Beas Management Board,
BSL Project, Sundernagar-175038
- Respondents/Managements

AWARD

Passed On:- 15.11.2022

Central Government vide Notification No. L-23012/115/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

Whether the action of the management of BBMB in not accepting the demands of Smt. Mathra Devi & Others, LH/LR of Late Dhameshwar Ram for declaring his retrenchment/termination as illegal and considering him in continuous service upto age of superannuation and resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/legal representatives of late workman are entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.116/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J.K. TRIPATHI, Presiding Office,

नई दिल्ली, 4 जनवरी, 2023

का.आ. 16.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 119/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2022 को प्राप्त हुआ था।

[सं. एल-23012/125/2018-आई आर (सी.एम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th January, 2023

S.O. 16.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2018) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 20/12/2022.

[No. L-23012/125/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No.119/2018

Registered on:-21.01.2019

Shri. Sant Ram S/o Sh. Noia,
R/o Village-Bharwari (Bhardwan),
PO-Kannaid, Tehsil Sundernagar, Distt. Mandi,
Himachal Pradesh-174401

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. ...Respondents/Managements

AWARD**Passed On:- 15.11.2022**

Central Government vide Notification No.L-23012/125/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of management of BBMB in not accepting the demand of Shri Sant Ram S/o Shri Noia for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

ii. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2 However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3 Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4 Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.119/2018.

5 Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J.K. TRIPATHI, Presiding Officer

नई दिल्ली, 4 जनवरी, 2023

का.आ. 17.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 63/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2022 को प्राप्त हुआ था।

[सं. एल-23012/47/2019-आई आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th January, 2023

S.O. 17.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.63/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 20/12/2022.

[No. L-23012/47/2019– IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.**

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No.63/2019

Registered on:-30.08.2019

Sh. Nand Lal S/o Sh. Gobind Ram,
Village Masiani P.o. Dhalwan Tehsil Baldwara,
Distt-Mandi (HP)-175033

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.
 2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018
- ... Respondents/Managements

AWARD

Passed On:- 06.12.2022

Central Government vide Notification No.L-23012/47/2019-IR(CM-II) dated 06.08.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Sh. Nand Lal S/o Sh. Gobind Ram for declaring his retrenchment/termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2 However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3 Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4 Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the instant reference ID No.63/2019.

5 Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 4 जनवरी, 2023

का.आ. 18.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 117/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2022 को प्राप्त हुआ था।

[सं. एल-23012/119/2018-आई आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th January, 2023

S.O. 18.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.117/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 20/12/2022.

[No. L-23012/119/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No.117/2018

Registered on:-21.01.2019

Shri Hukum Chand S/o Shri Devnu Ram,
Village Lag PO Maloh, tehsil Sundernagar,
Distt. Mandi, Himachal Pradesh - 175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038

... Respondents/Managements

AWARD

Passed On:- 15.11.2022

Central Government vide Notification No. L-23012/119/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of management of BBMB in not accepting the demand of Shri Hukum Chand S/o Shri Devnu Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

a. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.117/2018.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J. K. TRIPATHI, Presiding Officer

नई दिल्ली, 4 जनवरी, 2023

का.आ. 19.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 118/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2022 को प्राप्त हुआ था।

[सं. एल- 23012/123/2018-आई आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 4th January, 2023

S.O. 19.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.118/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 20/12/2022.

[No. L-23012/123/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No.118/2018

Registered on:-21.01.2019

Sh. Krishanu Ram S/o Sh. Sohan Lal,
R/o Village-Gulah, PO-Hatwar, Tehsil Ghumarwin,

Distt. Bilaspur, Himachal Pradesh - 174001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
 2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038
- Respondents/Managements

AWARD**Passed On:- 15.11.2022**

Central Government vide Notification No.L-23012/123/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demands of Shri Krishanu Ram S/o Shri Sohan Lal for deeming/Considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

i. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.118/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J.K. TRIPATHI, Presiding Officer